



ASSESSMENT OF THE INSTITUTIONAL AND TRAINING NEEDS OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

**INSTITUTIONAL CAPACITY, INITIAL TRAINING AND ONGOING
TRAINING**

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I. INTRODUCTION

The USAID Fair, Accountable, Independent and Responsible (FAIR) Judiciary Program in Ukraine began on October 1, 2011. The Project is designed to support legislative, regulatory, and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary in Ukraine. Its main objectives are to support USAID/Ukraine's assistance efforts in rule of law and democracy and governance through: 1) development of a legislative and regulatory framework for judicial reform that is compliant with European and international norms and supports judicial accountability and independence; 2) strengthening the accountability and transparency of key judicial institutions and operations; 3) strengthening the professionalism and effectiveness of the Ukrainian judiciary; and 4) strengthening the role of civil society organizations as advocates for and monitors of judicial reform.

Pursuant to Expected Result 3.2, FAIR is working to strengthen the capacity of the State Judicial Administration of Ukraine (SJA) to justify and present budget requests on behalf of Ukraine's judiciary. Pursuant to Expected Result 3.1, FAIR is also working to bolster the skills and competencies of Ukrainian judges through modern, demand-driven initial and ongoing judicial training programs. Under Task 3.1.1 FAIR will assist the National School of Judges of Ukraine (NSJ) in developing its institutional capacity to conduct: 1) initial training programs for candidates for the position of a judge; and 2) ongoing training programs for sitting judges. The NSJ needs support to identify its institutional needs as a newly-established institution transformed from the former Academy of Judges of Ukraine, with completely new functions and challenges mandated by the July 2010 Law on the Judiciary and Status of Judges.

This report provides the historical background that led to the creation of the National School of Judges from its predecessor the Academy of Judges of Ukraine. It sets out the international standards for judicial education, while providing an analysis of the institutional capacity of the NSJ itself. Issues related to initial and ongoing training are also addressed in detail. The authors conclude with specific recommendations to strengthen the NSJ's institutional capacity as well as its initial and ongoing training programs. A list of meetings and key regulatory documents regarding the NSJ are included as annexes.

II. BACKGROUND

The National School of Judges of Ukraine is a newly established institution aimed at providing initial and ongoing training for judicial candidates, judges and court staff. It was created in February 2011 pursuant to the Law on the Judiciary and Status of Judges and succeeds the former Academy of Judges of Ukraine.

The Academy of Judges of Ukraine (AOJ) was established in accordance with the Law on the Judiciary of Ukraine of 2002. Article 129 of this law defined the status and objectives of the AOJ as follows:

“1. The Academy of Judges of Ukraine shall function under the State Judicial Administration of Ukraine to provide the courts with skilled judges and staffers. The Academy of Judges of

Ukraine shall be a state institution of a higher education to train and improve the skills of judges and court staff.

2. The following shall be the main tasks of the Academy of Judges of Ukraine:

- 1) Training candidates for judges' positions who have a higher law education and meet the requirements set forth by the law for the candidates to the position of a judge;
- 2) Improving the skills of judges and court staff;
- 3) Conducting research into the improvement of court performance;
- 4) Analyzing international experience of court performance;
- 5) Scientific and procedural support for the operation of the courts of general jurisdiction and the Constitutional Court of Ukraine.

3. The Academy of Judges of Ukraine shall function pursuant to its statute that shall be approved by the Head of the State Judicial Administration of Ukraine and the Chief Justice of the Supreme Court of Ukraine as agreed with the Council of Judges of Ukraine.

4. The Academy of Judges of Ukraine shall be a legal entity with its own seal and bank accounts.”

Starting from 2003, the AOJ provided ongoing training to judges of appellate courts and judges of local courts appointed for their initial, five-year term. The Academy was also responsible for developing the Schedule of Training Activities for Judges and Court Staff and became a coordinator of subjects and delivery dates for training courses by the order of the State Judicial Administration of Ukraine No. 592 of November 11, 2003, approved by the Council of Judges of Ukraine. The AOJ also developed the Concept of the National System of Training, Retraining and Advancing the Qualifications of Judges, Court Staff and Staff of the SJA that was approved by the SJA.

In 2004, the AOJ established regional departments in Dnipropetrovsk, Donetsk, Lviv, Odesa, Sevastopol, Kharkiv and Chernivtsi. During this period, the AOJ also developed Model Educational Plans for judges of local and appellate courts of general jurisdiction and court staff. As another significant achievement at that time, the AOJ formed a team of faculty consisting of experienced judges. Judge-faculty completed seminars on interactive methods of teaching. Also, the AOJ introduced the practice of filling out questionnaires after every training program to evaluate the effectiveness, organization, relevance of a subject, and level of teaching, as well as proposals for future courses.

In 2005, the AOJ participated in developing tests for judicial candidates and the Regulation on the Testing of Candidates to the Position of a Professional Judge, which was approved by decision of the Council of Judges of Ukraine on September 30, 2005.

In 2006, the USAID Ukraine Rule of Law Project (UROL) started providing expert and technical support to the AOJ. The UROL project supported the professional development of judges and court staff by developing and conducting several series of training programs, and in particular training-of-trainers (TOT) programs on judicial ethics and opinion writing for judge-trainers of

the Academy. By 2009, at least two judge-trainers from every regional department of the AOJ had completed this training program remain able to teach judicial ethics and opinion writing to other judges. Together with the AOJ, UROL published instructional guides for judge-faculty on Judicial Ethics, Judicial Opinion Writing, Courts and Media (further developed and improved as Public Outreach in Courts), as well as a Handbook on Judicial Opinion Writing. UROL further supported a training program on the European Convention on Human Rights and Fundamental Freedoms and the Case-Law of the European Court of Human Rights co-organized with the Ukrainian Legal Foundation. Through 2011, UROL trained about 174 judicial trainers with the participation of more than 2,950 judges and court staff from throughout Ukraine.

In 2007, the AOJ provided judges with the possibility to participate at hearings of the Supreme Court of Ukraine as part of advanced ongoing training programs. Also, with support from the joint USAID and Millennium Challenge Corporation project (UROL MCC) it implemented new programs on administrative justice and the case law of the European Court of Human Rights. In that year, the AOJ also conducted the first pilot tests for judicial candidates in three qualifications commissions for judges of the general jurisdiction courts of Kyiv, Odesa and Kharkiv appellate circuits, and the qualifications commission for judges of the commercial courts of Ukraine. That same year, the AOJ obtained a building in Kyiv for use as premises for judicial trainings. However, the building required much reconstruction and due to lack of funding the reconstruction was not finished until 20XX. Currently the HQC has its own plans for the building, making it necessary for the NSJ to locate another space.

In 2008, the AOJ started developing training courses for newly-appointed judges on courtroom management and the basics of evidentiary law in cooperation with the National Judicial Institute of Canada. In 2009, the SJA created a working group that defined the status of the AOJ and recognized the Academy as the only institution providing special training for the judicial cadre in Ukraine.

Throughout its existence, the AOJ actively cooperated with international organizations, donor projects, and programs, such as the OSCE Project Coordinator in Ukraine, the EU and the Council of Europe Joint Program, “Transparency and Efficiency of the Judicial System of Ukraine,” the Canada-Ukraine Judicial Cooperation Project, the Austrian Twinning Project, etc. Donors like the UROL project urged the AOJ to hold coordination meetings among representatives of international donor projects to avoid duplication in how these organizations were supporting the AOJ. At the same time, the AOJ became substantially dependent on donor support and failed or was incapable to design, implement and evaluate training programs for judges and court staff on its own with its own resources. It could not function effectively without ongoing, outside donor support.

In July 2010, the Verkhovna Rada of Ukraine adopted a new Law on the Judiciary and Status of Judges that established an obligatory, six-month period of special (or “initial”) training for judicial candidates and gave authority to the National School of Judges of Ukraine (NSJ) to organize this special training. The original provisions of the Law stated that the NSJ should conduct practical, initial training for judicial candidates without specifying the distinction between theoretical training to be provided through law schools and practical training delivered

by the NSJ. In February 2011, the Verkhovna Rada passed an amendment to the law containing transitional provisions that make the distinction (in Article 69). The amendments also give the NSJ a mandate for conducting scientific research in issues concerning judiciary improvement (in Article 81), and named the NSJ as a successor to the AOJ, effectively disbanding the AOJ. The NSJ has inherited the assets of the AOJ, including its regional departments.

Although the NSJ came into existence in February 2011, by February 2012, a year later, its full status remains unclear as provisions in the Law on the Judiciary and Status of Judges do not clearly delineate the role of the NSJ versus the role of law schools of level IV of accreditation in organizing and conducting initial, special training for judicial candidates. Regardless, the NSJ is now in the process of developing a curriculum for initial training and preparing to actually conduct such training. At the same time, the NSJ continues to conduct ongoing training programs for judges and court staff at its headquarters in Kyiv and its seven regional departments throughout Ukraine.

III. INTERNATIONAL STANDARDS

In the landmark book *Educating Judges*, Livingston Armytage wrote that, “there are as yet no measurable standards of either judicial education or judicial competence within the common law system of judging.”¹ Neither are there such standards for initial judicial education in civil law jurisdictions.

The International Organization for Judicial Training (IOJT) has not developed any standards for either civil or common law jurisdictions. IOJT does, however, circulate the US standards drafted by the National Association of State Judicial Educators (NASJE). The *NASJE Standards for Judicial Branch Education* (JBE)² were designed for a common law system in which new judges and court staff have only brief orientation courses but attend ongoing training courses throughout their careers. As Dr. Armytage pointed out in *Educating Judges*, “The NASJE Principles and Standards for Continuing Judicial Education are a misnomer. These Standards provide minimum levels of participation in judicial education measured by the duration of attendance only, rather than any behaviour benchmarks of competence... In effect, these standards are quantitative rather qualitative.”³ However, the NASJE Standards raise important areas for consideration in assessing both initial and ongoing judicial branch education, such as organization of the entity, needs assessment, adult education methods, faculty, resources, and evaluation.

The assessors also refer to the *Bangalore Principles of Judicial Conduct* (2002)⁴ and *Opinion Number 4 of the Consultative Council of European Judges* (CCJE).⁵ In terms of curriculum

¹ Armytage, Livingston, *Educating Judges* (Kluwer International 1996), p 168.

² [http://www.iojt.org/iojt2/library/principles\[1\].pdf](http://www.iojt.org/iojt2/library/principles[1].pdf).

³ *Educating Judges*, p 169.

⁴ The Bangalore Draft Code of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002.

content for ongoing training, the recommended curricula of the European Judicial Training Network (EJTN)⁶ are also helpful because most of the EU members, like Ukraine, are civil law jurisdictions. The assessors have drawn on EJTN as well as their own experience in other civil law jurisdictions.

IV. INSTITUTIONAL CAPACITY

This analysis of NSJ institutional capacity relates to its overall ability to present both initial training for new judges and ongoing training for all judges. The NSJ has a tremendous workload under difficult circumstances. It is blessed by a dedicated, enthusiastic staff who grasp the fundamentals of course planning.

1. Long Term Planning

NASJE Standard 2.1 specifies that “Each JBE organization should have **a clear, written statement of its mission, goals, and objectives.**” The NSJ does not apparently have this. *NASJE Standard 2.6* on the necessity for adequate resources says that, “The JBE organization should have both **a plan** and the resources to meet short- and long-term goals.” [emphasis added] The NSJ needs a cohesive plan for the immediate and long-term future of the institution. The staff need to become even more organized and strategic in their approach in order to devote sufficient time to each of the NSJ’s activities.

2. Independence

The NSJ is an independent state institution under the High Qualifications Commission of Judges of Ukraine (HQC), in keeping with the *Bangalore Principles Value 1 on Independence* and *Value 6 on Competence and Diligence*. In particular, 6.3 states: “A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, **under judicial control**, to judges.” [emphasis added] *Opinion Number 4 of the CCJE, point 16*, also recommends that “The judiciary should play a major role in or itself be responsible for organizing and supervising training. Accordingly, and in keeping with the recommendations of the European Charter on the Statute for Judges, the CCJE advocates that these responsibilities should, in each country, be entrusted, not to the Ministry of Justice or any other authority answerable to the Legislature or the Executive, but to the judiciary itself or another independent body...”

⁵ Opinion Number 4 of the Consultative Council of European Judges (CCJE) to the Attention of the Committee of Ministers of the Council of Europe on Appropriate Initial and In-service Training for Judges at National and European Levels (2003).

⁶http://www.ejtn.net/Documents/Resources/EJTN%20Training%20Guidelines/EuropeanCivilTrainingGuidelines_EN_v1.pdf and <http://www.ejtn.net/Documents/Resources/EJTN%20Training%20Guidelines/EJTN%20sub-group%20penal%20-%20Curriculum%20Update%202011.pdf>

3. Workload

NSJ has a tremendous work load. According to the *Law on the Judiciary and Status of Judges, Section V, Chapter 1, Article 81*, NSJ shall conduct:

- 1) practical training of candidates for a judicial position;
- 2) training of judges: appointed to the judicial position for the first time; elected to a lifetime judicial position; appointed to administrative positions in courts;
- 3) periodic, ongoing training of judges to improve their professional level;
- 4) training of court staff;
- 5) scientific research in issues concerning judiciary improvement;
- 6) study of international experience in organizing court operations;
- 7) scientific-methodological support for operations to the courts of general jurisdiction, the High Qualifications Commission of Judges of Ukraine and the High Council of Justice.

The special, six-month-long training for new judges, to be approved by the HQC, shall be conducted jointly by the NSJ and law schools. *Chapter 1, Article 69 of the Law on Judiciary and Status of Judges* states: “1) Special training of candidates for a judicial position shall consist of theoretical training delivered by a specialized higher law school of fourth level of accreditation and practical training delivered by the National School of Judges of Ukraine.” Special training is currently suspended to allow time for the NSJ to organize appropriate premises and adequate funding to support special training, and for law school capacity for delivering theoretical training to be audited and analysed, but the HQC and NSJ hope to begin it this year. The HQC expects each class to have between 300 and 400 candidates.

In addition, once appointed judges in their initial, five-year appointment must attend two weeks of ongoing training each year. Judges appointed to lifetime tenure must attend two weeks of ongoing training every three years. Attendance may be continuous or periodic throughout the year(s). There are approximately 8,600 judges in Ukraine.

Also, NSJ is the provider of training to approximately 36,000 court staff. In 2011, even with assistance from outside donors, NSJ was able to provide the required ongoing training to only about 40% (3,500) of Ukrainian judges and 10% (3,500) of court staff. The Center for Judicial Studies of Ukraine, a non-governmental organization established in 2000, also provides a small amount of ongoing training for judges, usually in conjunction with foreign donors. However, it is unclear whether the Center’s courses or donor-funded activities, such as study tours, can be used to fulfil the two week requirement.

Finally, NSJ has the research, outreach and support tasks mandated by law.

4. Staffing

NASJE Standard 2.2 states that “Each JBE organization should have a full-time director, assisted by full-time staff.” The NSJ has this. It is led by a Rector who is a retired Supreme Court Chief

Justice, and three Vice Rectors. One is a retired Supreme Court Justice and two are respected academics. The NSJ has about 75 staff members, including four to seven staff members in each of its branch locations in Lviv, Odesa, Dnipropetrovsk, Sevastopol, Chernivtsi, Donetsk, and Kharkiv. *NASJE Standard 2.3* requires that, “The JBE organization should provide opportunities for its staff to maintain and improve professional skills.” It is essential that retired judges and academics be trained in the necessary business management skills to run the school. It is also essential considering the incredible volume of training that NSJ must deliver for support staff to operate at maximum efficiency and efficacy.

5. Facilities

The NSJ has no building of its own. It currently has one large classroom with fixed seating and a small amount of office space in the Appellate Court building in Kyiv. The branch offices also have rented or borrowed space. The NSJ has to rent or borrow classrooms in order to present most of its courses. This is in violation of *NASJE Standard 4.4 on the Learning Environment* which states that, “The physical environment for JBE activities should support learning and learning objectives.” *CJE Opinion 4 at 37 vi.* recommends that, “the programs should take place in and encourage an environment in which members of different branches and levels of the judiciary may meet and exchange their experiences and achieve common insights.” The Law on the Judiciary and Status of Judges **specifies a dedicated place to house the National School of Judges of Ukraine. Developing such a facility**, in which all the judicial candidates will find themselves at some time, **is necessary**. [Emphasis added]

The classroom in Kyiv that the assessors visited is modern, clean, well maintained and has audio-visual aids. However, it is a tiered auditorium that seats over 200 on fixed theater-style furniture. There is no adequate writing space. The room is too big for small groups, and the fixed furniture precludes small group interaction and discussion. The NSJ is therefore not in compliance with either the *NASJE Standards* or the *CCJE Opinion Number 4*.

It is necessary to create a NSJ large enough to respond to the training needs and issues of Ukrainian judges for the next decades. Through such a facility, generations of judges will be formed and the school will help to build a unified judicial corps. The positive example of the facility of the Academy of Prosecutors of Ukraine seems to be particularly revealing in this respect.

Of course, the NSJ should provide work spaces adequate for:

- i) accommodating the entire initial training class in an auditorium,
- ii) work in groups of 20-25 persons for role playing exercises or simulations,
- iii) theoretical learning in slightly larger group sizes (50 persons),
- iv) independent study and individual work between classes,
- v) library and research space, well supplied with documents and books, as well as national and international legal databases accessible through the Internet.

The NSJ premises should not be limited to what is traditionally found at any university: NSJ is a professional school, responsible for initial and ongoing professional training. Those who will

teach at the NSJ will be mainly judges (who will comprise 70% of the faculty according to our discussions). Therefore, fostering relationships between professors and students are not the only consideration, but also those between two professionals, established both experientially and through training. Accordingly, NSJ space and equipment must help build a relationship between two future colleagues⁷ who work together on common subjects.

The professional characteristic of the school should impact the facility design as described above. Moreover, ideally NSJ facilities should be digitized as much as possible to provide flexibility for Internet communication and other communication with the external world. In the classroom, audio-visual aids (including, for example, interactive whiteboards) should be provided and in hearing simulation rooms, recording tools allowing an analysis of the simulations through video replay would be useful. Finally, each learner should be equipped with a notebook and an electronic address allocated by the School, to facilitate a means of connection with the school and his class. As resources allow, learners should be provided with laptop computers to enable necessary research, particularly during practical training periods. Consequently, the NSJ should provide specific training to ensure candidates have appropriate skills to use high-performance tools.

6. Budget

CCJE Opinion Number 4, point 11 says that, “The state has a duty to provide the judiciary or other independent body responsible for organizing and supervising training with the necessary means, and to meet the costs incurred by judges and others involved.” *NASJE Standard 2.6* states that, “Each state’s JBE organization should have appropriate resources to plan for effective education over time.”

In 2011, NSJ’s budget for ongoing training was only slightly over USD 1 million. This year, it is approximately USD 2.5 million. Next year, NSJ is requesting USD 5 million for all its operations, including all judicial and court staff training, research and support activities. This still compares poorly to the Academy of Prosecutors’ budget of nearly USD 4.5 million to provide initial and ongoing training for 12,000 prosecutors. The NSJ budget is inadequate for its mandate.

7. School Management

One of the main issues for the NSJ will be the consistency of the school functioning, comprised of seven regional branches, i.e. eight different sites in total (to which four higher education sites will be added for the initial training). The advantages of using this organization method are quite evident, especially, the proximity of recruitment. This is significant in terms of the economy and travel expense in a very vast country. Nevertheless, the disadvantages are considerable, including a multiplication in facility operational costs and overhead for all these centers, as well as the risk of not having a centralized, operational unit in the School. Multiple branches could also create disparities in the quality of training provided, especially in the ongoing training. The

⁷ In this respect, it would be useful to identify a term other than “student” for those persons enrolled in initial training.

tasks of the NSJ management and team management will be substantially complicated for these reasons. The recommendations below try to reduce such risks:

- i. Efforts should be focused on **establishing extremely close managerial relations with the local branches**. This may be accomplished by having on staff one or several persons dedicated to the consistency of the different pieces of the initial, practical training and ongoing training. The question of the relationship between the head office and the branches should be dealt with in an explicit and formalized manner. For this purpose, recourse to external assistance (such as a specialized consultant office) able to lead the management group in finding consensual solutions and to operate them should be high priority.
- ii. Management capacity may be strengthened by one or more of the following:
 - Training on change management for at least one of the top managers, if this has not already been done.
 - Team building workshops for the NSJ management staff in Kyiv and branches.
 - Development of a multi-annual training program for NSJ central management staff on coaching and remote team management.
 - Recruitment of one or several intermediary judges to the NSJ staff, responsible for monitoring off-site practical training as NSJ representatives, supporting the judges in charge of learner evaluation during their practical training, and ensuring that the judicial candidates (also, “learners”) fully benefit from practical training. Intermediary judges could be assigned similar roles in the field of decentralized, ongoing training.
 - Broadband links between different NSJ sites (the links by “Internet Protocol” are those with the highest speed) to organize high-quality videoconferences with multiple-site participation.

8. Assessment of the Institution’s Performance

For several years, a number of public institutions in Western countries have allocated resources to measure not only their management but also their results, using performance indicators.

Performance indicators are tools that can measure quality and efficiency and help to assess the operation of an institution. It should be noted that efficiency will be defined below as the ratio between the degree of achievement of set goals and the quantity of resources used (for instance, human resources or budgetary funds) to achieve these goals.

Indicators, then, can measure the degree of efficiency in implementing public policy. Public management indicators differ from some found in the commercial sector. Public management performance indicators measure the achievement of collective objectives set by the institution within the mission conferred by the State or local authority. For this reason such indicators may, in some cases, measure the degree of satisfaction from the point of view of the citizen (social and economic efficiency). In other cases, they measure from the point of view of the “user” (quality of service), and in still others, from the point of view of the taxpayer (management efficiency).

Performance indicators are not intended to punish or to reward a particular person, but to help the institution act and reflect back on the effectiveness of the **strategy** which was elaborated upstream. Thus, they serve to manage the institution and must be thoroughly developed and monitored by members of the management. Accordingly, the objectives to be measured are dependent on the essential missions of the institution.

Performance indicators are generally measured from year to year, in order to preclude falsifying comparisons of one year with another. Performance indicators should carefully developed. They must be realistic (otherwise, there is a risk of not achieving them) yet ambitious (because, if they are too easy to achieve they do not really measure performance of the public function). The institution that sets the indicators must also be responsible for realizing them. Indeed, if an external factor disrupts the realization of the indicators, they lose their quality as an internal management tool of the institution.

Indicator measurements tell the institution what to report for strategic management or other progress and, at the same time, they serve as alarm signals when objectives cannot be achieved by the institution over several, consecutive years. In such cases, indicators are a very strong sign that an analysis should be undertaken to improve things.

Here are some examples, among others possible, of performance indicators that could be implemented by the National School of Judges of Ukraine:

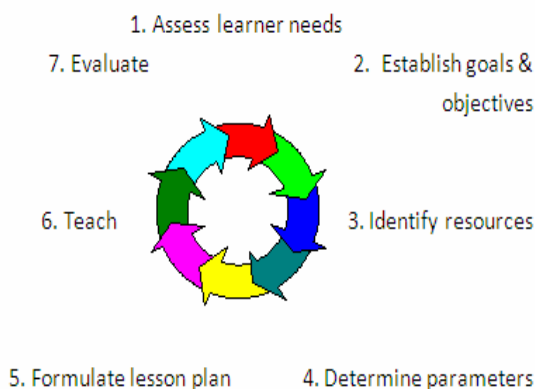
- i. The number of persons who, having successfully passed the training of judges at NSJ, actually become a judge within the time limit of three years as provided by the law, owing to the initial training. Of course, the objective would be to have the maximum number. In this respect, as for all indicators, the target value should be defined. Using this indicator, insight into the social and economic efficiency of the system created by the law is possible.
- ii. Another possible indicator is the annual cost of training a candidate who successfully passed all the processes to be put on the waiting list kept by the HQC. This figure must be a calculation of the full cost, i.e. including all expenses related to the initial training, expenditures on the part of personnel, and operating expenditures of the NSJ related to recruitment and initial training. In this precise case, the NSJ exceeds slightly its competence, because it is not responsible for recruitment, but **it would be prudent to ascertain the figures related to the cost**. It would be very useful not only for the NSJ but also for the High Qualifications Commission.
- iii. A final, possible example is to have an indicator verifying that the new judges are able to practice in their profession upon their first appointment. This indicator could be obtained with a measure of “user satisfaction,” i.e. in this specific case, the users are the Chief Judges of the courts who supervise the new judges just after they leave the NSJ and are appointed. This would be a very useful measure of the initial training.

9. Course Development Practices and Procedures

Principle IV of the NASJE Standards says that, “Judicial Branch Education programming should use appropriate adult education methods to assess needs, design and implement curricula, and

evaluate results.” To analyze the course planning methods of the NSJ, the assessors discussed the course planning model below with the upper management of the NSJ:

Course Planning Model



2

i. Assess Learner Needs

NASJE Standard 4.1 requires that, “The JBE organization should regularly assess and analyze participants’ learning needs, responsibilities, and performance.” The NSJ performs needs assessment in a variety of ways: by surveying the judges themselves on course evaluation, in which they can request future topics for ongoing training; by discussing topics with experienced judges and trainers; and by engaging in dialogue with the HQC.

ii. Establish Goals and Learning Objectives

NASJE Standard 4.2 states that, “Each JBE activity and related instructional materials should have a clear, concise, written statement of intended learning objectives and should be designed and implemented to achieve these objectives. Objectives should be specific, realistic, and measurable.” The NSJ drafts goals and learning objectives for all courses. However, program staff and trainers would benefit from a workshop on this topic to ensure that the NSJ’s goals and learning objectives conform to international standards.

iii. Identify Resources

The Commentary after *NASJE Standard 2.6* on the necessity for adequate resources says that, “The JBE organization should have both a plan and the resources to meet short- and long-term goals. Appropriate resources include human, fiscal, and physical resources necessary to achieve the organization’s goals and objectives.” The NSJ has inadequate facilities and an inadequate budget; it is also understaffed for the enormity of its tasks.

iv. Determine Parameters

As explained above, the NSJ has inadequate facilities, budget and staff. The NSJ's primary limitation is lack of premises and funding.

v. Formulate Lesson Plan

NSJ staff members consult with advisory judges while developing courses. This is in conformity with international best practices and with *NASJE Standard 2.4* recommending advisory committees. The advisors often become the faculty of NSJ courses. However, NSJ needs to develop internal standards to ensure consistency in the format and quality of its courses.

vi. Teach

NASJE Standard 4.3 requires that, "Judicial branch learning activities should promote active participation and engage all learning styles." The NSJ encourages faculty to use case studies, practical exercises, simulations, group discussion and group reports in ongoing training. In ongoing training for lifetime-appointed judges, the NSJ often holds roundtables for judges at substantially the same experience level, during which these experienced judges can exchange opinions and views – in essence, they teach each other. All these methodologies are commendable. It is imperative that faculty be encouraged to continue to employ these interactive methods and that through continued TOT, new faculty utilize such methods.

vii. Evaluate

NASJE Standard 4.5 states that, "The evaluation method should determine, both during and after the activity, whether the learning activity achieved the stated learning objectives and met the participants' expectations." The accompanying commentary points out that, "Evaluation during a program allows faculty to adjust the program when needed to meet objectives. **Impact and follow-up evaluations conducted at intervals following education programs** often reveal more learning and reinforce the learning." The NSJ does a good job of soliciting from the participants and summarizing standard course evaluation forms at the end of each course. *NASJE Standard 5.4* says that, "**Faculty should engage in regular and ongoing evaluation of their JBE programs and their teaching techniques** and objectives to ascertain that they are meeting the needs of their participants." [emphasis added] However, the NSJ does not include evaluation of the faculty members by name in these evaluations, nor does it solicit self-evaluation from the faculty. The NSJ does not perform post-course evaluation after an interval following the course.

V. INITIAL TRAINING PROGRAM

This part will be divided into the following elements:

- The process of recruitment and arrival to the NSJ
- The process of initial training
- The process of final assessment of candidates after initial training

For each of these elements, we will describe, first of all, the process provided by the Law on the Judiciary and Status of Judges. Then, we will carry out an analysis leading to a number of suggestions.

First of all, one should emphasize the huge challenge and high responsibility of the NSJ. Concerning the initial training, its role is concentrated, in conformity with the law, on the practical training of first-time judges. However, it will be seen that this mission will probably have repercussions on the recruitment and assessment process, for which the HQC has the responsibility to guide and coordinate. Owing to its operational role in the initial training and in ongoing training, the NSJ will, undoubtedly, have in the future the means to provide useful observation and understanding of the overall recruitment and training process.

1. Recruitment Process.

i. Recruitment Process: Description

The number of positions is defined by the High Qualifications Commission depending on its estimation of the vacancies. The opening of the competition is announced publicly.

At this first stage, the HQC provides eligibility control over the candidates (examining their compliance with the conditions provided by the law to the proposed candidacy).

Eligible candidates are subject to an examination of “theoretical knowledge” at the HQC. The law does not specify the degree of theoretical knowledge needed and the HQC has a large task on this point (by comparison with the Academy of Prosecutors of Ukraine, where 60% of the learners have a bachelor of law at entry).

Candidates for a judge’s position, having successfully passed an initial test, will be allowed to participate in the special training dedicated to the functions of judges, and involving theoretical training (at one of four universities of the IV degree of accreditation, two of which are not still identified). Those who successfully pass this theoretical training will be then sent for six months to practical training at the NSJ. The HQC is in charge of organizing a final exam and registering those who passed it successfully, depending on their rank, on the so-called “reserve” list. Afterwards, at the opening of a job vacancy, the HQC selects who from the reserve list will occupy this vacancy. This choice is made depending on the results of the final examination. Then, the confirmation process before the President of Ukraine takes place, but we will not consider it here.

ii. Recruitment Process: Analysis

At this stage and without knowing other documents, nothing indicates that the number of candidates is exactly equal to – or only slightly exceeds – identified needs. Indeed, per the law it does not appear that the HQC is able to eliminate candidates meeting two conditions (citizenship and competence). On the contrary, the law calls this verification a “background check” (article 68.2). Therefore, it is possible that the number of persons sent to special training to become judges exceeds the need. Since any specific training is an investment by the government (in time and in resources), this issue should be studied during the recruitment process in the coming years. Really, in case of an excess in the number of candidates compared to the need, frustration will be double, on the part of the government that spent excessively on recruitment, as well as on the part of the persons who, having been admitted, will never get the position.

Once the special training is successfully passed, the judicial selection process is not finished because candidates have to apply for positions as judgeships become vacant. As this process may take some time, the law stipulates that candidates who successfully completed training at the NSJ will be eligible to be appointed as a “first appointment judge” for 3 years.

The advantage of this system is that appointments correspond to the real choice of candidates, both geographical choice and in terms of the court qualification. In other examples in the world, candidates are appointed directly after graduating from the judicial training school and the number of positions open corresponds exactly to the number of candidates. The result of this is that some low-ranking candidates who are selected later and do not have as many positions to choose from cannot choose their desired geography or specialization upon their appointment. Nevertheless, this disadvantage is substantially attenuated in part by the fact that the final ranking of the learners takes place not at the end of the training, but several months before. Consequently, learners already know at least the type of court to which they will be appointed and can specifically prepare for the specialization of appointment in the final months they have before their graduation from the judicial training school.

In the Ukrainian system specified by the Law on the Judiciary and Status of Judges, the advantages and drawbacks are reversed: from one side, it is possible that no position will find an applicant, and from the other, perhaps no candidates will find a position that is convenient for them within three years according to the law. Here is another source of the system’s inefficiency which is potentially very important. What is the use of having trained (and paid) candidates in whom six months have been invested, who possibly will never take a judge’s position even though the country needs them?

After initial training the HQC ranks and places the candidates on the reserve list. As we have seen in the description section above, the law is clear on the manner in which the HQC must carry out the selection process among persons admitted and placed in the reserve list. On the other hand, there is a question as to how the HQC would proceed if a candidate coming from a previous year’s class applies for one of the vacant positions at the same time as a candidate from the most recent year. Is the ranking obtained at the N year exactly comparable to the ranking of the year N+1, N+2, or N+ 3? If this is the case, it means that the exams passed from year to year have to be exactly comparable and, once being established, the evaluation system is not changed

from year to year. This is a point to be clarified if, as emphasized by the law, we want judicial selection to be fair and transparent.

Analysis of the recruitment process reveals sources of ambiguity or inefficiency in the qualifications process before candidates enter the NSJ, including uncertainty in the manner of comparing learners of different years and the possibility that a number of candidates, having successfully passed the whole recruitment process, will never take the position of judge. All these issues should be the object of joint efforts, at the moment of the implementation of the initial training, between the main stakeholders concerned, the HQC and the NSJ. Indeed, the FAIR project supports ongoing work to improve judicial selection and testing and to finalize a list of judicial competencies with these partners.

2. Initial Training

i. Initial Training: Description

Initial training is specified in the Law on the Judiciary and Status of Judges as follows:

- Article 66.5: “candidates who pass an examination and the required inspections/checks successfully shall be sent to take special training at a specialized higher law school of fourth level of accreditation.”
- Article 66.6: “After successful training at a specialized higher law school of fourth level of accreditation the High Qualifications Commission of Judges of Ukraine shall send the candidates to take special training at the National School of Judges of Ukraine.”
- Article 69.2: ”The curriculum and procedure for special training of candidates for a judicial position shall be approved by the High Qualifications Commission of Judges of Ukraine with the concurrence of specialized higher law schools of fourth level of accreditation and the National School of Judges of Ukraine.”
- Article 69.3: “Special training shall be conducted over 6 (six) months at the expense of the State Budget of Ukraine. For the period of training the candidate for a judicial position shall retain his/her principal position and receive a grant of at least two thirds of his/her official salary of a judge of a local court of general jurisdiction.”
- Article 82. Objectives of the National School of Judges of Ukraine (see Section IV.3, p. 9, which incidentally names **article 81** as containing the language below)

We will be limiting the below to the initial training of judges “appointed to the judicial position for the first time.”

Notably, HQC Decision No. 822 of December 21, 2011 named the “Concept of Establishment of the National School of Judges of Ukraine,” includes only formal value, without any indication of the future content of the training to be provided by the School, with the exception of the terms of Article 69 of the Law on the Judiciary and Status of Judges. According to this article (again see

Section IV.3, p. 9), the HQC will determine the sequencing and standards for special training, in coordination with a higher school of fourth level of accreditation and the NSJ.

ii. Initial Training: Analysis

The page of initial training is, at this stage, in February 2012, relatively empty, because efforts of the different stakeholders are rather concentrated on the implementation of ongoing training at the NSJ.

Nevertheless, several elements may be taken in consideration to help in the setting up of initial training. The need for initial training in the near term is high. As noted by Justice Ihor Samsin, Head of the HQC, during a meeting on February 9, 2012, between 300 and 400 judicial candidates per year will need to undergo initial training. Other considerations reinforce this prospect of high recruitment needs. First, it is not yet identified if judges will be able to change, during their career, from one specialty (criminal law, civil law, administrative law, or commercial law) to another. If they cannot, the absence of “versatility” in the career development of judges will reinforce the need for training. In addition, as Ukraine is still undergoing institutional and judicial reform, there is no real possibility of a decrease in demand for initial training programs. A recent example is the revision of the Criminal Procedure Code and its fast enactment within six months of passage in 2012, which will impact heavily on the volume of initial and ongoing training.

The length of the initial training of judicial candidates is short compared to the experience of Western European countries; it lasts only six months. According to a comparative study of legislation⁸ on judicial training in select Western European countries, law school graduates who have successfully passed selection examinations to become judges typically train from 18 months to three years before taking the bench, depending on the country. This training often takes the form of practical training and, if there is a specialized school for the judiciary, advanced theoretical training, alternating with periods of practical training.⁹

Initial training with practical methods is used in countries having recruitment models based on theoretical examinations, as well those filling judge positions from the ranks of legal professionals. One significant exception exists in England and Wales, where judges are chosen among lawyers. To be eligible, lawyers must have worked in their profession for 7, 10 or 15 years depending on the particular position. In practice, judges are selected among practitioners having at least 20 years of experience. Taking into account the experience of these new judges, their initial training lasts only several days.

Some of these examples show that two key types of initial training for judicial candidates exist. In France and the Netherlands, for example, it is believed that the professional theoretical and

⁸ « Le recrutement et la formation initiale des magistrats du siège, Etude de législation comparée n°164, service des études juridiques du Sénat (France), 2006. Accessible at www.senat.fr.

⁹ Note, that this alternation between theory and practice is possible when training is long. When the alternation is shorter, the risk of producing superficial knowledge and shallow practice is higher.

practical qualities of the future judge are acquired through deepening and repetition, which takes time and requires a long initial training program. In other cases, as in England and Wales, lengthy professional experience in other branches of the legal profession is considered sufficient to generate these necessary qualities. In both cases, practical competencies, such as the ability to summarize a case file or the ability to give grounds for a judicial decision, are also essential in the training of a judge. In the case of Ukraine, of course, practical training is now required by the law.

What principles are embedded in providing initial training to judge candidates? Institutions must know what skills are being developed. To train the candidate means to give him or her not only technical competency, but also to give him or her “transversal” competencies, or those competencies concerning attitudes and behaviors necessary for handling cases and procedure in any field of law.

The issue of technical competencies is easy to consider; transversal competencies are a more delicate issue, and below we will consider them. The Ecole Nationale de la Magistrature (ENM) in France, for instance, organized a part of its education based on transversal competencies. First, it tried to identify fundamental capacities for a judge-- those which, consciously or no, drive him or her to act daily. This list has been developed by inventorying the actual practice of professional judges but, also, due to its 50 years of experience with judicial training, the subject matter treated at ENM. This list is also based on international standards, arising, namely, from the European Convention for the Protection of Human Rights and Fundamental Freedoms and from the case law of the European Court of Human Rights. All these enumerated qualities cannot obligatorily be applied to Ukraine, because some qualities depend intrinsically on the country’s judicial process. However, a number of these competencies are valid independently of the judicial system. Among them are:

- ability to identify, learn and apply deontological (ethical) rules
- ability to analyze and to generalize a situation or a case
- ability to identify, observe and guarantee procedural framework
- ability to motivate, formalize and explain the decision
- ability to take into account the national and international institutional environment

Undoubtedly, others can be found, and specifically adapted to the Ukrainian context. One can see that these competencies apply to a judge’s work independently of a particular field of law (criminal law, civil law, administrative law, commercial law). In addition to theoretical knowledge and case studies, the organization of initial training should insist on the acquisition of such fundamental competencies. This is not easy to organize, because the natural tendency is to try to build the maximum amount of technical capacity. Of course, the latter is essential and a place should be reserved for it in the initial training. The judge, however, is not only a technician of the law. The judge must also have all necessary qualities to meet unexpected or completely new situations, in which technical knowledge is a tool but not a solution to the question, and he should be prepared to respond to all such situations.

Several questions arise from these considerations, specifically: (1) how to organize the sequencing in the most efficient manner, i.e. to achieve both the necessary technical and

behavioral competencies; and (2) whether initial training provided by the NSJ must be organized according to the four large specialties of the Ukrainian courts (again, civil, criminal, commercial, and administrative). Whatever the answer, the sequencing of the training **should not be excessively divided** leaving ample time for the practical training; moreover, this sequencing should contain a period of preparation for a candidate's new functions as a judge. Sequencing for initial training could contain three types of training:

Training in analytical techniques: during discussions with the Head of the HQC, the need for the NSJ to allocate a lot of time to practical training was mentioned often. Distributing 90% of the curriculum to practice and 10% to theory has been even proposed, as well as using judges for 70% of the trainers, and academics for 30%. This shows a strong will to prioritize a practical orientation for this training, as specified by the law.

The National School of Judges must be an applied school in which the base theoretical knowledge will already have been learned, and which is therefore almost exclusively dedicated to judicial practice. To teach practice, priority will be given to role-playing exercises, case studies, and hearing simulations. These sessions, especially hearing simulations where the judicial candidates play specific courtroom roles during a hearing, could be recorded to be later dissected. It will allow candidates to collectively analyze, together with the trainer, the content or manner in which the case has been considered juridically, and the behavior of those who participated in the hearing (i.e. the manner in which the hearing was conducted).

Long period of practical training: it is very important, indeed, to give judicial candidates the possibility to undertake practical training for least three months with the same mentor judge and with a clear status: not only as an observer, but also as a judge assistant, having access to the cases the judge is considering (candidates may take a special oath of confidentiality as necessary; this is the case of the French Ecole Nationale de la Magistrature). During this practical training, the judicial candidate gets from the mentor judge a specific mission relative to several cases of any type (hence, relative to the four large fields of justice). This experiential learning opportunity will considerably enrich the judicial candidate, and provide a basis for his or her assessment. At least one, if not several, members of the NSJ management team should be responsible for supervising practical training, in order to prevent a failure situation. The supervising management member should likewise ensure consistency and avoid significant distortions in judicial candidate assessments completed by mentor judges. Each mentor judge will have an individual vision of things which must be reduced to strategic and pedagogical consistencies established by the NSJ, through a syllabus and/or checklist to be followed by all mentor judges.

Period of preparation for new functions (one month): even if the final choice of a judicial candidate's specialty is made at the moment of their posting to a vacancy, i.e. after training at the NSJ, it is necessary to make a pre-selection during the initial training at the NSJ, particularly in a practical training assignment to prepare for the new functions of being a judge. During this training, the judicial candidate will focus on one of the fields of justice in Ukraine (it should be noted that the majority of candidates will become judges in the fields of civil law or criminal law). At this stage, the practical training supervisor will entrust the

candidate with a case file that the candidate will process and maintain. Such case files will deal with only one field of law, selected preliminarily by the judicial candidate, in coordination with the NSJ.

Between the long practical training and the period of preparation for new functions, a future judge should return to the NSJ to allow for an analysis of the practical training and to resume technical exercises. Organizing the practical training as a three-month endeavor would guarantee maximum productivity for the training.

This three-block organization breaks the usual division between the fields of justice (administrative, criminal, civil, commercial law). It prioritizes the acquisition of transversal competencies concerned with the future judge's behavior in comprehending the case and presiding over the hearing. This organization may be viewed as disadvantageous as it foregoes the classical approach of acquiring technical skills. (However, nothing prevents the NSJ from establishing continuous control in parallel, because this is the way towards which the HQC is oriented). This organization emphasizes the acquisition of competence in all fields of law, and develops a preliminary specialization for the candidate judge. The advantage of this type of sequencing is to get judges who are operationally functional at the moment they take the bench.

Other advantages of this type of training in large blocks include avoiding too-frequent trips to the NSJ, which is essential because the six-month length of initial training is very short. Moreover, with this structure the NSJ can organize several classes in rotation over a year. Also, having restricted groups contributes to knowledge transfer and individual attention to the judicial candidates.

3. Final Assessment

i. Final Assessment: Description

Final assessment is provided for by the Law on the Judiciary and Status of Judges, in Article 70. It is based on an assessment of theoretical knowledge, the level of professional training of the candidate, and his or her degree of preparation to decide a case in jurisdictional matters of different courts. The law also provides for assessing the “personal and moral qualities of the candidate.”

Also, the law outlines some practical details of final examinations (anonymous tests, case studies to be solved by the candidates to assess their practical competencies, and their capacities to apply the law). The Law on the Judiciary and Status of Judges even provides for different processes intended to guarantee, at the same time, anonymity and transparency in the training assessment process for the candidates.

ii. Final Assessment: Analysis

This aspect of the training and assessment process seems to be ideally adapted to the standards that have evolved in the countries with a long history of initial training for judges. Nevertheless,

not all aspects of such assessment are covered by the law, which is quite normal. Among the issues worth analyzing, we present two here:

- By whom and how should a practical training assessment be carried out?
- What are the methods recommended for the final assessment (and, particularly, how can the personal and moral qualities of a candidate be assessed)?

Regarding the first issue, it is important for the candidate's practical training experience to be assessed, regardless of the sequencing that is ultimately chosen, with the result integrated into the candidate's final score at the end of initial training. The share of this assessment in the candidate's final result must be significant. The practical training assessment should be completed through close collaboration between the NSJ and mentor judges to ensure that the mark is as objective and harmonized with other assessments as possible.

On the issue of the final examination, at least a general examination to check a candidate's theoretical and practical knowledge should be developed, taking place simultaneously for all candidates. Indeed, it is normal that specific and selective tests take place throughout the training period. This has the advantage of providing consistent quality control and allowing detection of the difficulties of particular candidates well in advance. Conversely, the drawback is that the process of pedagogic transfer is strongly impacted by this often-repeated evaluation. In the normally finite relationship between professor and student, the impact may not be as pronounced as at the NSJ, where as previously stated the relationship being established is that between two future colleagues. Another drawback is that a general examination allows for only a fragmentary and partial assessment. For these reasons, an examination should create the same situation for all candidates, to check their general knowledge and determine, in a coherent manner, the qualification level of the group. Of course, within the overarching evaluation process, one or several long tests should be based on the case files distributed to the candidates.

- How can the personal and moral qualities of a candidate be assessed?

To administer justice assumes precise legal knowledge. Likewise, it assumes an adapted and well-balanced personality. The Law on the Judiciary and Status of Judges provides that this balance should be evaluated, which is probably an excellent thing. It positions this evaluation at the end of the training at the NSJ, but it does not give any precise detail. One of the persons questioned on this subject said that in this field in Ukraine everything is yet to be considered and decided.

Here are some thoughts based on comparative experience. First of all, the examination of the moral and personal qualities of candidates must be surrounded by guarantees to avoid any risk of recruiting according to a fixed stereotype. Also, the assessment must be based on scientific rigor, even if such rigor is not absolute in this field. Finally, the assessment shall be absolutely transparent, without having any other implications than those related to recruitment.

What are the moral and personal qualities to be assessed? Concerning moral qualities, honesty, uprightness, and integrity are evidently essential qualities for a future judge. Their analysis may easily be performed by studying the candidate's past and his police record. One can imagine that

the HQC, with its investigation means under the law, could complete such analysis even before candidates begin the long recruitment process. Indeed, it would be a pity to pay for six months of training for a person and determine afterwards that such essential qualities are lacking.

Personal qualities are more subtle to define. Personal qualities to be met by the candidate were determined, for the French magistrates, in the following way (this is a recent process, dating from 2008):

- Ability to adapt
- Ability to assume, depending on circumstances, a position of authority (or humility)
- Ability to build relationships, to listen, and to exchange ideas
- Ability to create an agreement, to reconcile
- Ability to work in teams

Probably, other personal qualities could be named, but these are sufficiently universal to cover a large part of the spectrum of personal qualities expected from a judge.

How can these types of qualities be evaluated? Making the task difficult, there is no ideally scientific method for such evaluation, and there is a risk of subjectivity or conformism. In France, where the candidate's personality is now examined, an evaluation of personal qualities is based on two tests of a different nature, which might be possible for Ukraine:

- Candidates could pass personality tests, with tools used internationally. These tests integrate assessments of personality based on five primary dimensions (the so-called *Big Five* theory)¹⁰ and based on an understanding of pathological dimensions. Other, classic tests are based on evaluating aptitude and understanding.

In this first series, there is no real test, nor scoring, but a questionnaire with multiple choices to be prepared, checked and interpreted by a psychologist. In case of doubt on the responses, this test series may be accompanied by an interview with the psychologist and a person in charge of recruitment (ideally, a judge). This interview will not be evaluated, but will allow the psychologist to form an opinion on the candidate's compatibility with judiciary functions.

- A test putting the candidate into a situation determined by the board of examiners may also be organized. This situation (with the simultaneous participation of several candidates) consists of presenting them with a precise problem in which everybody should play a role. The suggested situation is not obligatorily of a judicial nature, but it is based

¹⁰ 1) Neuroticism - the tendency to easily experience unpleasant emotions, and the absence of which denotes calm and emotional stability; 2) Extroversion - the tendency to seek stimulation and the company of others; 3) Agreeableness - the tendency to be compassionate and cooperative rather than suspicious and antagonistic; 4) Conscientiousness - the tendency to show self-discipline, act dutifully, and aim for achievement; 5) Openness to experience - Appreciation for art, subtly, and unusual ideas; imaginative and intellectually curious. See http://psychology.wikia.com/wiki/Big_Five_Theory.

on giving responsibility (at a company, school, hospital, or municipality, for example). Participants play between them a precise allocated role over 30 minutes (i.e., a role of director, pilot, or head of a department or company). Candidates receive precise directives and they must manage the situation both collectively and individually, at the same time. Candidates distribute freely the right to speak, while each of them must speak for a minimum amount of time specified by the observers (members of the examination board and a psychologist).

The advantage of these types of tests is that the examination board may directly assess the behavior of candidates, with the presence and assistance of the psychologist. After the test, no mark is given to the candidate and the board proceeds to a debriefing which will allow to the candidate, individually this time, to complete his comments, and to defend his or her position or attitude adopted during the collective test.

The results of such complex tests with highly psychological characteristics are polar and slightly discriminatory. Either the candidate's character is acceptable for judicial functions, in which case all other matters will determine his success, or a serious difficulty has been detected and, independent of the results of other tests, the candidate is eliminated.

These types of assessments are suitable for examining the tricky issue of the personal qualities of candidates and provide, if not an ideally scientific approach, at least one with sufficient objectivity. The disadvantage is, of course, the length of the process, since as a practical matter examiners can only observe about two groups of three persons per half-day.

VI. ONGOING TRAINING PROGRAM

Ukrainian judges have both an entitlement to and a requirement for ongoing training. The NSJ is required by law to provide two weeks a year of ongoing training to judges serving their initial, five-year appointment. The NSJ must provide two weeks every three years to judges appointed to lifetime tenures. Class sizes range from 20 to 50 judges, and training days generally consist of four, 40-minute lessons over eight hours. There are breaks every 120 minutes. Accordingly, a week of training consists of 36 hours. Based on the current number of five-year (2,242) and lifetime-appointed judges (6,358), the NSJ should present over 350,000 hours of ongoing training in 2012.

In addition, the NSJ must provide ongoing training for court staff throughout Ukraine. There are currently approximately 36,000 court staff spread over 769 courts of various levels. The NSJ has scheduled 42 courses for court staff in 2012.

Analysis

1. Curriculum

Since the categories of judges are defined in the Law on the Judiciary and the Status of Judges, the NSJ has developed curricula based on the type of judge and court-- such as courts of first instance-- divided by the type of case (civil, criminal, administrative, and commercial) and appellate courts by type of court. Sixty-one such trainings are scheduled for 2012. In addition to

updates on new laws, judges need to have progressively advanced training in their court's specialty. As judges are promoted, they need new skills. Chief Judges need management training. However, organizing courses by type of judge and court precludes cross-fertilization and exchange of ideas among different kinds of judges. There have also been complaints by judges that they want more information in advance in order to attend courses on topics they find of interest and utility. Training will also be more helpful if participants' needs are assessed in advance of the course so that the trainers can respond to specific questions and problems in the topic area.

NSJ is fortunate to have donor support from foreign funders such as USAID, the European Union, and the Council of Europe. The NSJ also cooperates on some programs with the Ukrainian Association of Judges. During the first half of 2011, donors funded 58.6% of ongoing training for judges.¹¹ Donors co-sponsor many of the short seminars that the NSJ will present in 2012 on a variety of topics, such as communications, human rights, pensions, and bankruptcy, often in cooperation with donors. Thirty-seven seminars are scheduled for 2012.

The European Judicial Training Network has developed recommended *European Civil Training Curriculum Guidelines*¹² that emphasize intellectual property law. The *European Criminal Justice Training Guidelines*¹³, updated in 2011, recommend inclusion of organized crime, money laundering, counterfeiting, corruption, illicit drug trafficking, human trafficking, terrorism, cyber crime and intellectual property law. One of the assessors has observed an international trend in several civil law jurisdictions (Mongolia, Egypt, Iraq, and Romania) that judges want more training on intellectual property law, financial crimes, and cyber crime. The demand for such topics in Ukraine should be assessed so that the NSJ can develop ongoing training on these topics as applicable.

2. Faculty Selection and Remuneration

The NSJ currently has about 140 faculty members teaching ongoing training for judges and court staff. These trainers teach on a part-time basis. *CCJE Opinion Number 4* says:

20. It is important that the training is carried out **by judges and by experts** in each discipline. Trainers should be chosen from among the best in their profession and carefully selected by the body responsible for training, taking into account their knowledge of the subjects being taught and their teaching skills.
21. When judges are in charge of training activities, it is **important that these judges preserve contact with court practice**. [Emphasis added]

¹¹ Cojocaru, Christina, *Assessment Report on Ongoing Training Needs of Judges in Ukraine*, (November 2011), p.12

¹² http://www.ejtn.net/Documents/Resources/EJTN%20Training%20Guidelines/EuropeanCivilTrainingGuidelines_EN_v1.pdf

¹³ <http://www.ejtn.net/Documents/Resources/EJTN%20Training%20Guidelines/EJTN%20sub-group%20penal%20-%20Curriculum%20Update%202011.pdf>

Maintaining part-time faculty who remain active on the bench or in some other related discipline conforms to *CCJE Opinion 4*. *NASJE Standard 5.2* states that “Faculty should reflect the learners they serve. Where they have appropriate subject matter and adult education expertise, education faculty should include judges and judicial branch personnel. All JBE faculty should participate regularly in faculty development.” The NSJ ratio of 80% judges to 20% others, including academics and expert outsiders, reflects a suitable mix. In addition to basic TOT, NSJ has presented advanced faculty development.

The HQC is trying to obtain funding so that NSJ faculty can be paid. In many countries, including the United States, most judges teach other judges and court staff *pro bono* for the good of the profession and joy of teaching. Another alternative is for judges and court administrators to be seconded to NSJ for periods of up to three months, or simply be given release time from their normal duties to prepare and teach ongoing training.

3. Distance Education

NSJ has no distance education capacity to link branches for simultaneous sessions, bring in remote faculty for brief presentations, or provide judges or court staff with e-learning packages that they can study independently on their own schedule. Having enough time to attend courses is a significant problem for judges. Developing such abilities will minimize travel needs for both trainers and judges, give judges and court staff a more flexible training schedule, and save NSJ money in the long run.

The Association of Judges is setting up an expert network in 25 appellate courts to handle questions on decisions of the European Court. The 25 expert judges, one in each court, took a course and TOT on the topic. They will receive and answer questions over the Internet from their fellow judges. There is a record of the questions and answers so there need not be any repetition. Eventually, the network will include trained experts in the 665 trial courts in Ukraine. This model can easily be extended to other topics and issues.

4. Criminal Procedure Code (CPC) Training Emergency

In addition to its existing duties to present initial training for new judges, ongoing training for all judges, and other research and support duties, NSJ will face a special challenge in 2012 when the new Criminal Procedure Code goes into effect. The new CPC will cause a crisis in ongoing training. All judges, including those who sit on civil, administrative and commercial cases, will need to have some familiarity with the new code. This probably means a half day of training for roughly all non –criminal court judges throughout the country.

In Ukraine, there are at least 4,830 criminal judges in trial courts and 1,700 who hear criminal cases in appellate courts. Judges sitting on criminal cases will need intense training on the application of the new code. In particular, they need to study the differences in procedure. In addition, during a transition period, there will be continued need for training on the old code until all cases where crimes were committed under the old code have gone to trial and finished the appeal process. Criminal trial and appellate court judges need to learn when to apply which code. If a crime was committed before the new one went into effect, is it tried under old or new? What

if the arrest is after the new code goes into effect? What if a case has been tried under the old code but is on appeal after the new code goes in to effect?

Staff in criminal courts will also need training on the new CPC and advice on how to update procedures, time frames, and documentation to be in compliance with the new law.

The NSJ needs an emergency training plan for 2012 to meet this educational need. Cooperating with the Association of Judges to set up a CPC expert network like the one the Association of Judges is setting up on European Court decisions would be an excellent supplement to ongoing training.

5. Monitoring

The required ongoing training for judges can be consecutive, but it can also be accumulated in shorter segments over a period of time. NSJ needs to have a database to monitor whether judges are fulfilling their requirement and/or receiving their entitlement to ongoing training. [Such a database is in development at the Lviv branch of the NSJ.]

VII. RECOMMENDATIONS

The assessors presented their preliminary recommendations on February 23, 2012 at the Seminar on, “Results of the First National Selection of Judicial Candidates: Lessons Learned, Ways of Improvement and Implementation of Initial Training of Candidates Judges,” in Lviv, Ukraine, sponsored by the Ukraine FAIR Justice Project and the HQC. Ms. Edwards spoke in person. Mr. Chasles spoke through Skype video. Seminar participants finalized the following list of recommendations.

Institutional Capacity: In order to build institutional capacity, the NSJ should:

- 1) With the assistance of outside facilitators, develop a mission statement, a strategic plan for the next five years, and an action plan for the coming year.
- 2) Remain a separate, independent institution, in keeping with the Bangalore Principles.
- 3) With the assistance of outside experts, perform an audit of the management techniques of the Rector, sub-rectors, and department heads, and of office procedures implemented by support staff, such as registration, reimbursement of trainers and participants, and course management schedules. With outside assistance the NSJ can update, automate where necessary, and streamline procedures. This should be followed by targeted management training for all levels of staff to ensure maximum efficiency and efficacy.
- 4) Obtain its own building with adequate office and classroom space specifically designed to house an adult education institute. The design of the facility should reflect the high professionalism of the judiciary and foster dialogue among trainers and trainees. The NSJ should have one large room similar to the one it currently uses in the Kyiv appellate court building that is suitable for plenary sessions. It also needs multiple, smaller, flat classrooms [as described above] with a maximum capacity of 50 for ongoing training and meetings of judicial candidates, as well as a moot court room for simulations. Classrooms

should have flexible furniture to allow a variety of room layouts, encouraging interactive teaching methodologies. Ideally, all classrooms should have permanent, state-of-the-art audiovisual aids. The branches also need adequate classroom space. In addition, NSJ in Kyiv should have adequate research, Internet, and independent study spaces.

- 5) Obtain a larger budget. The combined number of judges and court staff to be trained by the NSJ is similar to the 12,000 prosecutors for which the Academy of Prosecutors has a USD 4.5 million training budget. The NSJ should receive a proportionate annual appropriation for its over 44,000 judges and court staff. It also needs a special appropriation in 2012 to cope with the training emergency generated by the new Criminal Procedure Code.
- 6) Run team building workshops for the NSJ Kyiv and branch management staff.
- 7) Develop a corps of judge monitors to assess quality and consistency among branches and of training participants.
- 8) Assess NSJ institutional performance.
- 9) Run Training of Trainers workshops, taught by an outside expert for trainers and NSJ management, on the distinction between goals and learning objectives and how to draft learning objectives that are specific, realistic, and measurable.
- 10) Continue Training of Trainers for new and replacement faculty, emphasizing the development of learning objectives and the imperative for modern, interactive presentation methods responsive to all learning styles.
- 11) Develop internal standards for trainers to ensure consistency in the format and quality of its courses.
- 12) Expand NSJ evaluation methods by including evaluation of trainers by name, self-evaluation by trainers of themselves, and post-course evaluation of long-term program effectiveness. An outside expert should train senior management of the NSJ on the multiple levels of evaluation, based on a model such as Kirkpatrick's Four Levels of Evaluation¹⁴, and help them develop additional evaluation instruments. The expert can also meet with the faculty to explain the need for expansion of the system and ensure that they understand that evaluations of and by themselves are not a threat but, in the long-term, a validation of the trainers' hard work.

Initial Training Program: To enhance the quality of its initial training course, the NSJ and HQC should:

- 1) Establish a curriculum in three or four main parts, including long-term practical training and a shorter (i.e., one month) practical training to prepare candidates for their new functions as a judge.

¹⁴See <http://www.nwlink.com/~donclark/hrd/isd/kirkpatrick.html>.

Step 1: **Reaction** - How well did the learners like the learning process?

Step 2: **Learning** - What did they learn? (the extent to which the learners gain knowledge and skills)

Step 3: **Behavior** - (What changes in job performance resulted from the learning process? (capability to perform the newly learned skills while on the job)

Step 4: **Results** - What are the tangible results of the learning process in terms of reduced cost, improved quality, increased production, efficiency, etc.?

- 2) Set up training not only for technical skills but also for transverse skills of the future judge (i.e., ability to identify oneself as a judge, ability to summarize a case file, ability to guarantee a judicial procedure, ability to give grounds for a judicial decision, etc.)
- 3) Set up a period dedicated to learning analytical techniques based on role-plays or mock trials. These sessions will be recorded and analyzed.
- 4) Develop students' computer skills.
- 5) Set up an assessment of the students based on:
 - Level of knowledge
 - Individual behavior and skills during their practical training periods.
- 6) Set up a final assessment of the individual qualities of the student through psychological tests and professional, situational role-plays.

Ongoing Training Program: To enhance the quality of its ongoing training courses, the NSJ should:

- 1) Provide more details in advance about the topics included in ongoing training courses.
- 2) Incorporate or expand course offerings on organized crime, money laundering, counterfeiting, corruption, illicit drug trafficking, human trafficking, terrorism, cyber crime, intellectual property law, and media relations.
- 3) Continue its practice of having part-time faculty who “preserve contact with court practice.” If the NSJ cannot obtain sufficient remuneration for them, the NSJ should arrange with the court system for judges and court administrators who teach to be given release time from their normal duties to serve as NSJ trainers.
- 4) Develop distance learning capacity. Equipment and facilities for distance learning should be incorporated into NSJ's new building (see recommendation 3 on institutional capacity above). The NSJ should hold TOT courses to teach trainers how to design and present e-learning courses.
- 5) Cooperate to establish more expert networks like the one on European Court decisions.
- 6) Develop an emergency plan for training on the new CPC.
- 7) Develop a computerized monitoring system to track ongoing training attendance/compliance with requirements.

VIII. CONCLUSION

In order to fulfill its mandate, the National School for Judges of Ukraine needs to have its own professional building with adequate classroom space, office space, Internet, distance learning capacity, and state-of-the art audio-visual aids. NSJ staff need additional management training, and NSJ needs to expand its course evaluation process. The NSJ needs to enhance consistency among its branches by improved communication and team building. Likewise, the NSJ needs to define its relationships with the law schools for the initial training program. The curriculum of the initial training should be in three or four parts, with a lengthy practical training component and intense skills training through role playing. The NSJ should also incorporate or expand ongoing course offerings on organized crime, money laundering, counterfeiting, corruption, illicit drug trafficking, human trafficking, terrorism, cyber crime, intellectual property law, and media relations.

ANNEX A: LIST OF MEETINGS

Tuesday, February 7

- 10:00 – 11:30 USAID FAIR Justice Project Team Meeting
FAIR Office
- 14:00 – 17:00 Meeting with the leadership of the National School of Judges of Ukraine
COP David Vaughn, DCOP Nataliya Petrova, Legal and Training
Specialist Yuliya Golovanova, Translator Irina Chernenko, NSJ Vice-
Rector on Research Work Nataliya Shuklina, NSJ Vice-Rector on
Organizational Work Volodymyr Mazurok, NSJ Vice-Rector on Training
of Judicial Personnel Oksana Kuchynska, NSJ Head of International
Department Tetyana Pustovoitova
The Kyiv City Court of Appeals premises
Solom'yanska St., 2A

Wednesday, February 8

- 17:00 – 18:00 Meeting with Nataliya Vereshchinska, Director of the Center for Judicial
Studies
Nataliya Vereshchinska, Legal and Training Specialist Yuliya
Golovanova, Translator Tetyana Hoch
Center for Judicial Studies premises
Pirogova St., 4/26

Thursday, February 9

- 10:00 – 12:00 Meeting with the High Qualifications Commission of Judges of Ukraine
COP David Vaughn, DCOP Nataliya Petrova, Legal and Training
Specialist Yuliya Golovanova, Translator Irina Chernenko, Head of the
HQC Judge Igor Samsin, Head of the HQC International Department
Polina Kazakevych, Head of the HQC Department on Relations with the
NSJ Roman Savchuk
The High Qualifications Commission of Judges of Ukraine premises
Zhylyanska St., 120A
- 13:00 – 14:00 Meeting with Andriy Meleshevysh, dean of the Law Faculty, the National
University "Kyiv-Mohyla Academy"
FAIR Office
- 14:00 – 15:30 Meeting with the judges-trainers of the NSJ, judges of the High
Specialized Court on Civil and Criminal Cases Olena Yevtushenko and
Olena Sytnik
FAIR Office

Friday, February 10

- 11:00 – 12:00 Meeting with Mary Butler, Chief of the Criminal Justice Reform Program, and Inna Grigoryeva, Resident Legal Advisor, U.S. Department of Justice, U.S. Embassy
FAIR Office
- 14:00 – 15:00 Meeting with the leadership of the National School of Judges of Ukraine Legal and Training Specialist Yuliya Golovanova, Translator Tetyana Hoch, NSJ Vice-Rector on Research Work Nataliya Shuklina, NSJ Head of International Department Tetyana Pustovoitova
The Kyiv City Court of Appeals premises
Solom'yanska St., 2A
- 15:30 – 16:30 Meeting with the leadership of the National Academy of Prosecutors of Ukraine
Legal and Training Specialist Yuliya Golovanova, Translator Tetyana Hoch, Head of the Initial Training Institute, Vice-Rector Oleksandr Tolochko, Head of the International Department Vladyslav Yakymenko
The National Academy of Prosecutors of Ukraine premises
Melnykova St., 81-b
- 17:00 – 18:00 Meeting with Oleksiy Reznikov, Vice-President of the Ukrainian Bar Association
FAIR Office

Thursday, February 16

- 13:00 – 14:00 Meeting with Judge Oleg Prysiachniuk, President of the Association of Judges of Ukraine
FAIR Office
- 15:00 – 15:45 Meeting with Vladyslav Yakymenko, Head of the International Department, the National Academy of Prosecutors of Ukraine Legal and Training Specialist Yuliya Golovanova, Translator Irina Chernenko
The National Academy of Prosecutors of Ukraine premises
Melnykova St., 81-b
- 16:00 – 17:00 Meeting with Lidiya Izovitova, Deputy Head of the High Council of Justice
Legal and Training Specialist Yuliya Golovanova, Translator Irina Chernenko
The High Council of Justice premises
Artema St., 89

Tuesday, February 21

12:00 – 14:00 Meeting with the Director of the Lviv Local Department of the National School of Judges and Judge of the Lvivska oblast Court of Appeals
COP David Vaughn, DCOP Nataliya Petrova, Translator Irina Chernenko, Liudmyla Slyusar, Director of the Lviv Local Department of the National School of Judges, and Judge Nataliya Kuriy, Lvivska oblast Court of Appeals
Lviv Local Department of the National School of Judges premises
Cholovskogo St., 2, Lviv

ANNEX B



HIGH QUALIFICATIONS COMMISSION OF JUDGES OF UKRAINE



USAID
FROM THE AMERICAN PEOPLE

FAIR JUSTICE PROJECT

INTERNATIONAL SEMINAR:

«RESULTS OF THE FIRST NATIONAL SELECTION OF JUDICIAL CANDIDATES: LESSONS LEARNED, WAYS OF IMPROVEMENT AND IMPLEMENTATION OF INITIAL TRAINING OF CANDIDATE JUDGES»

February 22-24, 2012

Lviv, Ukraine

Conference Hall of «Dnister» hotel
(6, Mateyko str., Lviv, Ukraine, 79000)

OBJECTIVES AND TASKS OF THE EVENT:

1. Analyze and discuss results of the first judicial candidates selection conducted under the new rules stipulated by the Law of Ukraine 'On the Judiciary and Status of Judges' of June 10, 2010.
2. Present, discuss and agree on recommendations developed by the Working Group regarding improvements to the procedure for selection of candidates for the first appointment to judicial positions.
3. Build consensus on the essential aspects of the judicial selection and first appointment processes among the key stakeholders.
4. Develop recommendations regarding further steps to improve legal and regulatory framework governing the procedure for selection and first appointment of judicial candidates.

AGENDA

DAY ONE: February 22, 2012 (Wednesday)

Topic:

Anonymous testing (examination) of candidates for the first appointment to judicial positions

- | | |
|---------------|--|
| 09:00 – 09:30 | Registration |
| 09:30 – 10:00 | Opening remarks

<i>Ihor Samsin, Head of the High Qualifications Commission of Judges of Ukraine</i>
<i>David Vaughn, Chief of Party, USAID Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Project in Ukraine</i>
<i>Victor Kryvenko, Deputy Chief Justice of the Supreme Court of Ukraine, Secretary of Administrative Chamber</i>
<i>Victor Tatkov, Chief Judge of High Commercial Court of Ukraine</i>
<i>Egidijus Laužikas, Head of the Commission on Judicial Training Coordination, Vice Chairman of the Judicial Council of Lithuania</i>
<i>Grzegorz Borkowski, Judge, Representative of the International Cooperation Department of the Polish National School of Judiciary and Public Prosecution</i>
<i>Kakha Koberidze, Member of the High Council of Justice of Georgia</i>
<i>Gergely Banhegyi, Director of the Judicial Academy, National Department for the Judiciary of Hungary</i> |
| 10:00 – 10:20 | The first selection of candidates to judicial positions under the provisions of the Law of Ukraine ‘On the Judiciary and Status of Judges’: results, experience of the Commission, lessons learned

<i>Ihor Samsin, Head of the High Qualifications Commission of Judges of Ukraine</i> |
| 10:20 – 10:50 | Judicial selection procedure in Georgia

<i>Kakha Koberidze, Member of the High Council of Justice of Georgia</i>
<i>Giorgi Shavliashvili Justice of the Supreme Court of Georgia</i> |
| 10:50 -11:10 | Discussion |
| 11:10 – 11:30 | Gaps analysis of the regulations on administration of anonymous testing (examination) of judicial candidates: expert assessment

<i>Steven Bakker, Testing Expert, USAID FAIR Justice Project</i> |
| 11:30 – 11:50 | Coffee Break |
| 11:50 – 12:05 | Ways and methods of improving the selection procedure of candidates for the first appointment to judicial positions (proposals of the High Council of Justice) |

	<i>Svitlana Mishchenko, Deputy Head of High Council of Justice Secretariat –Head of Department in charge of appointing and termination of judges and reviewing of judicial candidates’ complaints</i>
12:05 – 12:30	Participation experience of the examination commission member and the candidate to judicial position in HQCJU judicial selection conducted under new rules.
	<i>Mykhailo Vilgushynski, Deputy Head of High Specialized Court of Ukraine Svitlana Starovoitova, judge, Dniprovski raion court, city of Kyiv</i>
12:30 – 13:00	Discussion
13:00 – 14:00	Lunch
14:00 – 14:30	The need for systematic psychometrical analysis of test data of judicial candidates
	<i>Leonid Sereda, Testing Expert, USAID FAIR Justice Project</i>
14:30 – 14:45	Improving the procedure for judicial selection of candidates for first appointment (proposals of the Working Group created on HQCJU initiative)
	<i>Roman Paliy, Deputy Head of Secretariat, Director, Department for appointment, election and termination of judges. Ludmila Maistrenko, member of the WG, Head of Department providing for the Head and members of HQCJU,</i>
15:00 – 15:05	Discussion
15:05 – 15:35	Ensuring quality content of the anonymous testing (exam) of candidates to judicial positions. Selection and training of test item writers
	<i>Steven Bakker, Testing Expert, USAID FAIR Justice Project Leonid Sereda, Testing Expert, USAID FAIR Justice Project</i>
15:35 – 15:45	The need to establish a testing center
	<i>Nani Otroda, Deputy Head of Secretariat, High Qualifications Commission of Judges of Ukraine</i>
15:45 – 16:00	Discussion
16:00 – 16:20	Coffee Break
16:20 – 16:50	Test for judicial candidates and admission to school of judges – French experience (via skype)
	<i>Emmanuelle Spiteri-Doffe, magistrate judge, Deputy Director in charge of selection and competences evaluation, National School of Magistrates, Bordeaux, France</i>

16:50 – 17:30 **Wrap-up of the first day of the seminar**

Ihor Samsin, Head of the High Qualifications Commission of Judges of Ukraine

17:30 **Reception**

DAY TWO: February 23, 2012 (Thursday)

Topic:

Special Training of Candidates for the First Appointment to Judicial Positions as an important element of judicial selection procedure

09:00 – 09:20 **The objectives and authority of the National School of Judges of Ukraine regarding special training of candidates for the first appointment to judicial positions.**

Oksana Kuchynska, Vice-Rector of Training of Personnel for the Judicial Bodies, National School of Judges of Ukraine

09:20 – 9:45 **Results of needs assessment for the National School of Judges**

Mary Fran Edwards, USAID FAIR Justice Project Expert
Daniel Chasles, USAID FAIR Justice Project Expert, National School of Magistrates, France

9:45 – 10:15 **Discussion**

10:15 – 10:30 **Organization of conducting a special training of candidates to judicial positions: development of a Regulation on the procedure for special training of candidates to judicial positions**

Lidia Gorbacheva, Member of the High Qualifications Commission of Judges of Ukraine

10:30 – 10:50 **Conceptual provisions of special training of candidates to judicial positions**

Tetiana Fulei, Chief research officer of the Department of Scientific Research on the Issues of Legal Procedure and its Improvement, National School of Judges of Ukraine

10:50 – 11:05 **Admission of special candidates to judicial positions to the special training**

Mykola Melnyk, Member of the High Qualifications Commission of Judges of Ukraine

11:05 – 11:30 **Discussion**

11:30 – 11:50 **Coffee Break**

11:50 – 12:20 **Development of the syllabus and curriculum for special training of candidates to**

judicial positions

Roman Savchuk, Head of Special Training Methodology Department, Secretariat of High Qualifications Commission of Judges of Ukraine

12:20 – 12:40 **Content of the curriculum for special training of candidates to judicial positions**

Oleksandr Ishchenko, Head of the Department for Scientific and Methodological Support to the High Qualifications Commission of Judges of Ukraine, National School of Judges of Ukraine

12:40 – 13:00 **Discussion**

13:00 – 14:00 **Lunch**

14:00 – 14:15 **Traineeship in courts as part of special training of candidates to judicial position**

Anatolii Kostenko, Head of the Department for Organization of Special Training of Candidates to Judicial Positions of the National School of Judges, retired Justice of the Supreme Court of Ukraine, Honored Lawyer of Ukraine

14:15 – 14:45 **Role of the National School of Judges and Public Prosecution in the process of training of prospective judges**

Grzegorz Borkowski, Judge, Representative of the International Cooperation Department of the Polish National School of Judiciary and Public Prosecution

14:45 – 15:15 **Hungarian experience of the judicial candidates selection procedure**

Gergely Banhegyi, Director of the Judicial Academy, National Department for the Judiciary of Hungary

15:15 – 15:45 **Discussion**

15:45 – 16:00 **Legal education in Ukraine and access to judicial profession**

Andriy Boiko, Dean of Law Department of Ivan Franko National University of Lviv

16:00 – 16:20 **Coffee Break**

16:20 – 16:35 **Professional aptitude standards**

Lidia Moskvych, Docent of Chair for Organization of Judicial and Law Enforcement Agencies, National University 'Kharkiv Law Academy named after Yaroslav Mudryi'

16:35 – 16:50 **Discussion**

16:50 – 17:20 **Specific features of selection and professional training in the Institute for training**

professional judges under National University ‘Odesa Law Academy’

Oleg Todoshchak, *Director of the Institute for training professional judges under National University ‘Odesa Law Academy’*

Specific features of teaching International Law and International Relations within the framework of special training of judicial candidates.

Mykola Pashkovski, *Head of Chair of International Law and International Relations in National University ‘Odesa Law Academy’*

17:20 – 17:40 **Discussion and development of recommendations based on the results of discussions**

17:40 – 18:00 **Wrap-up of the second day of the seminar**

Ihor Samsin, *Head of the High Qualifications Commission of Judges of Ukraine*

DAY THREE: February 24, 2012 (Friday)

Topic:

Organizing and Conducting Qualification Examination of Candidates to Judicial Positions

09:00 – 09:20 **Structure of qualification exam for judicial candidates and assessment of its results**

Mykola Pinchuk, *Deputy Head, member of High Qualifications Commission of Judges of Ukraine*

09:20 – 09:50 **Results of the first qualification examination of candidates to judicial positions: gaps in normative and legislative regulation, ways to improve.**

Anatolii Martynkevych, *Secretary, Member of the High Qualifications Commission of Judges of Ukraine*

Serhiy Safulko, *member of the High Council of Justice, attorney, Chairman of the Board of “Confident” private law firm, city of Lutsk.*

09:50 – 10:20 **Discussion**

10:20 – 10:50 **Initial trainings, the end goal of each – appointment of a new judge
Ongoing training - mandatory for each judge.**

Egidijus Laužikas, *Head of the Commission on the Judicial Training Coordination, Vice Chairman of the Judicial Council of Lithuania*

Kęstutis Vaškevičius, *Director of the National Courts Administration of Lithuania*

Nerijus Meilutis, *Chief Judge of the Kaunas Regional Court (Lithuania)*

10:50 – 11:20 **Development of a list of personal and moral qualities of a candidate to judicial position**

(results of joint efforts of the National Academy of Sciences of Ukraine, previous composition of the High Qualifications Commission of Ukraine, Council of Judges of Ukraine, High Council of Justice, Twinning Project 'Support to the National School of Judges' and USAID Ukraine: Rule of Law Project, and/or result of the WG work)

Natalia Petrova, Deputy Chief of Party, USAID FAIR Justice Project

11:20 – 11:30

Discussion

11:30 – 11:50

Coffee Break

11:50 – 12:05

Methodology of testing personal and moral qualities of a candidate to judicial position in the course of special training and qualification examination

Nina Fadeieva, Member of the High Qualifications Commission of Judges of Ukraine

12:05 – 12:30

Verifying the judicial candidates' knowledge of the Code of Judicial Ethics

*Volodymyr Vikhrov, Member of the High Qualifications Commission of Judges of Ukraine
Viktor Horodovenko, Chief Judge of the Zaporizhzhia Oblast Court of Appeals*

12:30 – 13:00

Discussion

13:00 – 14:00

Lunch

14:00 – 14:30

**Wrap-up of the third day of the seminar
Development of recommendations based on the results of discussions**

*Ihor Samsin, Head of the High Qualifications Commission of Judges of Ukraine
David Vaughn, Chief of Party, USAID Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program in Ukraine*

ANNEX C

HIGH QUALIFICATIONS COMMISSION OF JUDGES OF UKRAINE

December 21, 2010

Kyiv

DECISION No 822/4-3p

On Establishment of the National School of Judges of Ukraine

Having listened to and discussed information of Secretary of the High Qualifications Commission of Judges of Ukraine – Working Group Member Maslii V.I. about the performance of the Working Group established pursuant to the Decision of the High Qualifications Commission of Judges of Ukraine No 761/3-3p of December 08, 2010 on Development of a Concept of Establishment of the National School of Judges of Ukraine and pursuant to the provisions of Parts 2 and 3 of Article 81, point 10 of Section XIII ‘Transitional Provisions’ of the Law of Ukraine ‘On the Judiciary and Status of Judges’

decided to:

1. Approve the Concept of Establishment of the National School of Judges of Ukraine, enclosed hereto.
2. Establish the National School of Judges of Ukraine under the High Qualifications Commission of Judges of Ukraine.
3. Appoint Vasyl Maliarenko as Rector of the National School of Judges of Ukraine.
4. Entrust the implementation of the part of this decision regarding development of an action plan aimed at achieving the objectives set out in the Concept to the Rector of the National School of Judges of Ukraine and submit it for approval of the High Qualifications Commission of Judges of Ukraine by January 20, 2011.
5. Entrust development of a draft Statute of the National School of Judges of Ukraine to the Rector of the National School of Judges of Ukraine and submit it for approval of the High Qualifications Commission of Judges of Ukraine by February 1, 2011.
6. Entrust organization and control over observance of this decision to Head of the High Qualifications Commission of Judges of Ukraine **Samsin I.L.**

**Head of the High Qualifications
Commission of Judges of Ukraine**

[signature]

I.L. Samsin

APPROVED

By the Decision of the High Qualifications Commission of Judges of Ukraine No 822/4-3p of
December 21, 2010

CONCEPT of Establishment of the National School of Judges of Ukraine

1. General Provisions

The National School of Judges of Ukraine shall be established under the High Qualifications Commission of Judges of Ukraine pursuant to the provisions of part 2 of Article 81 of the Law of Ukraine ‘On the Judiciary and the Status of Judges’ in order to address the issues of providing courts with qualified judicial and court staff, and conduct scientific and research activity in the field of the judiciary.

The abovementioned concept was developed pursuant to provisions of Article 81, points 10, 14 of Section XIII ‘Transitional Provisions’ of the Law of Ukraine ‘On the Judiciary and the Status of Judges’ and shall determine the basic principles of establishment of the National School of Judges of Ukraine on a basis of the Academy of Judges of Ukraine – a state body having special status in the judicial system of Ukraine.

2. Objective and Main Tasks of the Concept

The objective of the Concept is establishment of the National School of Judges of Ukraine to ensure establishment of the judicial corps that is able to discharge the powers of the judiciary efficiently, and promote introduction of the rule of law principle in the country, development of Ukraine as a legal and democratic state.

The task of the Concept is to determine the basic principles of addressing the issues regarding procedure of establishment of the National School of Judges of Ukraine under the High Qualifications Commission of Judges of Ukraine.

3. Implementation of the Concept and its Legal Framework

3.1. General Assessment of Legal Situation regarding Establishment of the National School of Judges of Ukraine

The Academy of Judges of Ukraine was established under the State Judicial Administration of Ukraine according to the Presidential Decree of October 11, 2002 No 918/2002. The same Decree orders to liquidate the Ukrainian Academy of Judges under the Ministry of Justice of Ukraine.

Pursuant to the abovementioned Presidential Decree, according to the Order of the Head of the State Judicial Administration of Ukraine of February 6, 2003 No 89, the Academy of Judges of Ukraine under the State Judicial Administration of Ukraine was established.

According to the Statute, the Academy of Judges of Ukraine functions under the purview of the State Judicial Administration of Ukraine.

According to Article 129 of the Law of Ukraine ‘On the Judiciary of Ukraine’ the tasks of the Academy of Judges of Ukraine shall be:

training of candidates to judicial positions from among the persons with higher legal education who conform to the requirements to judicial candidates stipulated by the law;
ongoing training of judges and court staff, carrying out scientific researches on improvement of court organization and performance;
studying international experience of court performance organization;
scientific and methodological support to activity of courts of general jurisdiction and the Constitutional Court of Ukraine.

The Statute of the Academy of Judges of Ukraine was approved by the Head of the State Judicial Administration of Ukraine and Chief Justice of the Supreme Court of Ukraine upon coordination with the Council of Judges of Ukraine.

According to the Article 126 of the Law, the State Judicial Administration of Ukraine ensured proper conditions for Academy's functioning, and performed functions of the main administrator of budget funds allocated to the Academy of Judges of Ukraine.

On July 30, 2010 the Law of Ukraine 'On the Judiciary and Status of Judges' of July 7, 2010 came into effect. According to the part 2 of Article 81 of this Law the National School of Judges of Ukraine is established under the High Qualifications Commission of Judges of Ukraine whose tasks shall be:

practical training of candidates to judicial positions, training of judges;

regular ongoing training of judges;

training of court staff, carrying out scientific research on improving the judiciary;

studying international experience of court performance organization;

scientific and methodological support to activity of courts of general jurisdiction, the High Qualifications Commission of Ukraine and High Council of Justice.

According to point 10 of Section XIII 'Transitional Provisions' of the Law, the National School of Judges of Ukraine is formed on a basis of the Academy of Judges of Ukraine.

According to Subpoint 2, point 14, Section XIII 'Transitional Provisions' of the Law, the Cabinet of Ministers of Ukraine is entrusted to approve the Regulation of Social and Material Support of Employees of the National School of Judges of Ukraine and provide for appropriate funding in the draft laws on State Budget of Ukraine for 2011 and subsequent years within three months from the day the Law comes into force.

3.2. Timelines of Establishment of the National School of Judges of Ukraine

According to point 7 of Article 82 of the Law, the National School of Judges of Ukraine performs scientific and methodological support to activity of courts of general jurisdiction, the High Qualifications Commission of Ukraine and High Council of Justice.

Judicial candidates shall undergo specialized training provided for in the Article 69 of the Law according to the Curriculum and Procedure of Specialized Theoretical and Special Practical Training of Candidates to Judicial Positions, approved by the High Qualifications Commission of Ukraine upon coordination with the high educational establishment of the fourth level of accreditation specializing in law and the National School of Judges of Ukraine.

Article 69 of the Law and point 2 of part 1 of Article 82 (performing training of judges by the National School of Judges of Ukraine) of the Law which predetermines establishment of the National School of Judges of Ukraine, came into effect on July 1, 2011 according to paragraph 3 point 1 Section XII 'Final Provisions' of the Law.

Therefore, establishment of the National School of Judges of Ukraine must be conducted taking into consideration of the fact that its functioning, including appointment of a Rector and Vice-Rector of the School by the High Qualifications Commission of Ukraine must start within the period established in the Law.

3.3. Mechanism of Establishment and Status of the National School of Judges of Ukraine

The National School of Judges of Ukraine shall be established pursuant to a relevant decision of the High Qualifications Commission of Ukraine and shall perform its activity according to the Law of Ukraine 'On the Judiciary and Status of Judges' and Statute approved by the High Qualifications Commission of Ukraine.

The National School of Judges of Ukraine is a state institution with a special status, a non-profit legal entity.

Since the Academy of Judges of Ukraine was established according to a relevant Presidential Decree, adoption of a new Presidential Decree which shall govern the issues of termination of the Academy of Judges of Ukraine shall be required to form the National School of Judges on a basis of the Academy of Judges of Ukraine.

The Presidential Decree may recommend the State Judicial Administration of Ukraine to make certain actions regarding liquidation of the Academy of Judges of Ukraine, may provide for transfer of property of the liquidated Academy of Judges of Ukraine by the Cabinet of Ministers of Ukraine to ensure functioning of the National School of Judges of Ukraine, for taking measures by the Cabinet of Ministers of Ukraine regarding funding of the National School of Judges of Ukraine.

Issuance of a relevant Decree by the President of Ukraine shall not contradict with constitutional powers of the President of Ukraine and shall allow creating legal prerequisites for further forming of the National School of Judges of Ukraine under the High Qualifications Commission of Ukraine.

DRAFT

APPROVED

By Decision of the High
Qualifications Commission of Judges
of Ukraine

of _____ 2012 No _____
Head

_____ I.L.Samsin

STATUTE
OF THE NATIONAL SCHOOL OF JUDGES OF
UKRAINE
(new version)

Kyiv, 2012

GENERAL PROVISIONS

1.1. THE NATIONAL SCHOOL OF JUDGES OF UKRAINE shall be a state institution with a special status.

1.2. The National School of Judges of Ukraine shall be established under the High Qualifications Commission of Judges of Ukraine and shall perform its activity according to the Law of Ukraine ‘On the Judiciary and Status of Judges’ and this Statute to be approved by the High Qualifications Commission of Judges of Ukraine.

1.3. The full name of the National School of Judges of Ukraine shall be:

- *in Ukrainian:* НАЦІОНАЛЬНА ШКОЛА СУДДІВ УКРАЇНИ;
- *in Russian:* НАЦИОНАЛЬНАЯ ШКОЛА СУДЕЙ УКРАИНЫ;
- *in English:* National School of Judges of Ukraine.

1.4. The abbreviated name of the National School of Judges of Ukraine shall be:

- *in Ukrainian:* НШСУ;
- *in Russian:* НШСУ;
- *in English:* NSJU.

1.5. Legal address of the National School of Judges of Ukraine shall be: 01601, Ukraine, Kyiv, Lypska Street, 16 G.

1.6. The National School of Judges of Ukraine shall be a public law legal entity having separate estate, independent balance, accounts in the bodies of the State Treasury Service of Ukraine and banks, including in foreign currency, seal with a State Emblem of Ukraine and its name, symbolic, stamps and forms.

1.7. The National School of Judges of Ukraine shall acquire a status of legal entity on the day of record of its state registration in the Unified State Registry of Legal Entities and Natural Persons – Entrepreneurs.

1.8. The National School of Judges of Ukraine shall be a non-profit institution.

1.9. Legislation on Higher Education shall not apply to the National School of Judges of Ukraine.

1.10. The National School of Judges of Ukraine shall perform operational control and accounting, statistical reporting independently.

1.11. Interference of state authorities in activity of the National School of Judges of Ukraine shall not be allowed except in cases stipulated by the legislation of Ukraine

2. OBJECTIVE AND TASKS OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

2.1. The National School of Judges of Ukraine shall be established to ensure training of high-qualified staff for the judiciary and to conduct scientific and research activity.

2.2. The tasks of the National School of Judges of Ukraine shall be:

2.2.1. Organization of special training of judicial candidates.

2.2.2. Training of judges appointed to judicial position for the first time; appointed to judicial position for a lifetime tenure; appointed to administrative positions in courts.

2.2.3. Ongoing training of judges.

2.2.4. Training of court staff.

2.2.5. Conducting scientific research on improving the judiciary.

2.2.6. Studying international experience of court performance organization.

2.2.7. Scientific and methodological support of activity of courts of general jurisdiction, the High Qualifications Commission of Judges of Ukraine and High Council of Justice.

3. RIGHTS OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

3.1. For implementation of its tasks the National School of Judges of Ukraine shall have the right to:

3.1.1. Conclude deals on its behalf, acquire proprietary and personal non-proprietary rights.

3.1.2. Establish and have regional branches. Be founder, co-founder of print publications, including the professional ones.

3.1.3. Address the relevant state authorities with proposals regarding improving current legislation.

3.1.4. Perform any other activity not prohibited by the legislation of Ukraine.

4. MANAGEMENT OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

4.1. The National School of Judges of Ukraine shall be headed by the Rector of the National School of Judges of Ukraine (hereinafter referred to as Rector) who shall be appointed by the High Qualifications Commission of Judges of Ukraine.

4.2. With regard to the National School of Judges of Ukraine the High Qualifications Commission of Judges of Ukraine shall:

4.2.1. Make decisions on establishment, merging, consolidation, division, transformation and liquidation of the National School of Judges of Ukraine.

4.2.2. Appoint and dismiss the Rector.

4.2.3. Appoint and dismiss the Vice-Rectors of the National School of Judges of Ukraine upon the motion of the Rector.

4.2.4. Approve the Statute of the National School of Judges of Ukraine and amendments thereof.

4.2.5. Agrees on organizational structure and number of employees of the National School of Judges of Ukraine upon the proposal of the Rector.

4.2.6. Address other issues as stipulated by the legislation of Ukraine.

4.3. Rector shall perform general management of activity of the National School of Judges of Ukraine and within his/her powers, according to current legislation of Ukraine and this Statute shall:

4.3.1. Organize work with regard to efficient management of the National School of Judges of Ukraine and holds personal responsibility for its activity.

4.3.2. Decides on all issues regarding activity of the National School of Judges of Ukraine independently, with the exception of those which are under the purview of the High Qualifications Commission of Judges of Ukraine, State Judicial Administration of Ukraine, staff or other bodies as set forth in the Statute and legislation of Ukraine.

4.3.3. Issue orders on appointment to positions, transfer and dismissal of employees of the National School of Judges of Ukraine, apply incentive measures and impose disciplinary sanctions on employees.

4.3.4. Issue orders, instructions and assignments mandatory for all structural units, employees and students of the National School of Judges of Ukraine, as well as organize control over their observance.

4.3.5. Represent without power of attorney and act on behalf of the National School of Judges of Ukraine in state authorities and state self-government bodies, in relations with legal and natural entities in Ukraine and abroad.

4.3.6. Establish and develop business contacts, participate in business meetings and negotiations, conclude agreements on behalf of the National School of Judges of Ukraine.

4.3.7. Perform the activity on administering the funds and property of the National School of Judges of Ukraine according to legislation of Ukraine and this Statute.

4.3.8. Address the issues regarding opening accounts of the National School of Judges of Ukraine in the bodies of the State Treasury Service of Ukraine.

4.3.9. Approve financial and other reporting regarding activity of the National School of Judges of Ukraine.

4.3.10. Ensure functioning of the labor safety system, adherence to the Rules of Internal Regulation of the National School of Judges of Ukraine, Occupational Health, Hygiene, Safety Rules, and Fire Safety Rules.

4.3.11. Submit organizational structure and number of employees of the National School of Judges of Ukraine for approval of the High Qualifications Commission of Judges of Ukraine.

4.3.12. Approve the staff reserve list of the National School of Judges of Ukraine.

4.3.13. Ensure selection of staff for vacant positions in the National School of Judges of Ukraine.

4.3.14. Ensure training of high-qualified staff for the judiciary and carrying out scientific research activity of the National School of Judges of Ukraine.

4.3.15. Conclude the collective agreement with the staff of the National School of Judges of Ukraine according to the established procedure and ensure observance of its provision.

4.3.16. Inform the staff about the status of implementation of tasks entrusted to the National School of Judges of Ukraine on the annual basis.

4.3.17. Issue order on distribution of duties between the Rector and Vice-Rectors.

4.3.18. Inform the High Qualifications Commission of Judges of Ukraine about implementation of tasks entrusted to the National School of Judges of Ukraine on the annual basis.

4.3.19. Form deliberative bodies and committees to facilitate discharge of duties of the National School of Judges of Ukraine, and determine their tasks, functions and composition.

4.3.20. Perform other functions determined by this Statute and legislation of Ukraine.

4.4. Vice-Rectors shall hold personal responsibility for areas of work according to the functional distribution of duties at the National School of Judges of Ukraine as established by the Order of the Rector.

4.5. A standing management body – University Administration of the National School of Judges of Ukraine (hereinafter referred to as the University Administration) shall be established for addressing the issues of academic, scientific and research, financial activities and human resources management which require collective consideration.

4.6. The Rector shall head and coordinate the activity of the University Administration and in his absence these functions shall be entrusted to an Acting Rector.

4.7. The ex officio members of the University Administration shall be: Rector, Vice-Rectors, Heads of Departments of the National School of Judges of Ukraine.

4.8. The main tasks of the University Administration and procedure of organization of its activity shall be determined by the Regulation on the University Administration of the National School of Judges of Ukraine approved by the Order of the Rector.

4.9. A consultative and deliberative body – Scientific and Methodological Council shall be established to ensure proper organization of scientific and research activity of the National School of Judges of Ukraine.

4.10. Composition of the Scientific and Methodological Council shall be approved by the Order of the Rector.

4.11. The main tasks and procedure of organization of activity of the Scientific and Methodological Council shall be determined by the Regulation on the Scientific and Methodological Council of the National School of Judges of Ukraine approved by the Order of the Rector.

4.12. Organization of work of structural units of the National School of Judges of Ukraine shall be performed according to the provisions approved by the Order of the Rector and shall be entrusted to their heads who are appointed and dismissed by the Order of the Rector.

4.13. Staff of the National School of Judges of Ukraine shall be comprised of all persons who are employed under the labor agreement or other forms that govern labor relationships between the employee and the National School of Judges of Ukraine.

4.14. Relationship between staff and the Rector of the National School of Judges of Ukraine regarding labor and social and economic issues shall be regulated by collective agreement.

4.15. General staff meeting of the National School of Judges of Ukraine shall be convened by the Rector not less than once a year upon the request of not less than 2/3 of total number of employees.

4.16. General staff meeting shall be valid should it be attended by not less than two thirds of the total number of employees of the National School of Judges of Ukraine.

4.17. Decision of general staff meeting shall be deemed as approved should it be voted for by the majority of the attendees at the general staff meeting of the National School of Judges of Ukraine.

4.18. Decision of general staff meeting of the National School of Judges of Ukraine shall be mandatory for consideration by the management of the National School of Judges of Ukraine.

5. ORGANIZATION OF SPECIAL TRAINING OF CANDIDATES TO JUDICIAL POSITIONS

5.1. The aim of organization of special training of candidates to judicial positions shall be obtaining knowledge and skills by the candidates and ensuring preparedness to rendering justice.

5.2. Organization of special training of candidates to judicial positions at the National School of Judges of Ukraine shall be focused on development and improvement of competencies necessary to judge. Specialization of courts shall be also taken into consideration.

5.3. Organization of special training of candidates to judicial positions at the National School of Judges of Ukraine shall be based on the following principles:

5.3.1. Mandatory nature of passing theoretical and practical training of candidates to judicial positions;

5.3.2. Specialization of special training by areas of training of judges-to-be.

5.3.3. Key role of the judicial corps in determining the main principles, content and from of the special training process.

5.4. Candidates to judicial positions shall obtain a relevant document developed according to the established form based on the results of special training.

5.5. Organization of special training of candidates to judicial positions at the National School of Judges of Ukraine shall be performed on a basis of the Procedure of Passing Special Training of Candidates to Judicial Positions at the National School of Judges of Ukraine, curriculum and syllabus which are approved by the High Qualifications Commission of Judges of Ukraine.

6. TRAINING OF JUDGES AND COURT STAFF

6.1. The aim of training of judges and court staff shall be providing the judiciary with high-qualified staff.

6.2. Training of judges and court staff shall be performed with the utmost consideration of the needs of the judiciary, use of innovative information technologies and engagement of as many judges as possible.

6.3. Process of training judges and court staff at the National School of Judges of Ukraine shall be based on the principles of:

- 6.3.1.** Open access to training process;
- 6.3.2.** Openness of training curricula development process;
- 6.3.3.** Participation of the judicial corps in the training process;
- 6.3.4.** A systemic, regular and continuous training process;
- 6.3.5.** Goal-oriented training;
- 6.3.6.** Transparency of training results assessment;
- 6.3.7.** Use of case law in the training process;
- 6.3.8.** Compliance of training with the legislation of Ukraine and consideration of best practices of foreign countries.

6.4. Passing the training of judges and court staff shall be confirmed by the certificate of the National School of Judges of Ukraine.

6.5. Training of judges and court staff at the National School of Judges of Ukraine shall be performed based on the Procedure of Training of Judges and Court Staff at the National School of Judges of Ukraine approved by the Order of the Rector.

7. ORGANIZATION OF SCIENTIFIC AND RESEARCH ACTIVITY OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

7.1. Scientific and research activity of the National School of Judges of Ukraine – shall be intellectual creative activity aimed at obtaining and using new knowledge in the field of training of high-qualified staff for the judiciary, scientific support of court performance and other bodies of the judiciary by conducting fundamental and applied scientific research, carrying out scientific and research, scientific and methodological work according to the tasks of the National School of Judges of Ukraine.

7.2. The aim of carrying out SCIENTIFIC and research activity of the National School of Judges of Ukraine shall be:

7.2.1. Scientific support of: organization of special training of candidates to judicial positions; ongoing training of judges; training of court staff; training of judges appointed to judicial position for the first time, appointed to judicial position for lifetime tenure, appointed to administrative positions in courts;

7.2.2. Carrying out scientific research on improving the judiciary;

7.2.3. Studying international experience of court performance organization;

7.2.4. Scientific and methodological support of activity of courts of general jurisdiction, the High Qualifications Commission of Judges of Ukraine and High Council of Justice.

7.3. Scientific and research work of the National School of Judges of Ukraine shall be performed on a basis of the following principles:

7.3.1. Balance between fundamental and applied scientific research;

7.3.2. Comprehensive approach to addressing scientific issues in the field of law;

7.3.3. Integrity of legal science, education and practice;

7.3.4. Economic feasibility and efficiency of scientific research and implementation of their results;

7.3.5. Academic responsibility for adequacy and authenticity of obtained results;

7.3.6. Creation of appropriate conditions for free search of scientific truth, its explication and diffusion;

7.3.7. Regularity of scientific research;

7.3.8. Comprehensive support of scientific structural units, temporary working groups able to ensure the high level of scientific research.

7.3.9. Integration of domestic science in international science;

7.3.10. Continuous application of specific scientific results and methodologies of training in the process of training of staff for the judiciary.

7.4. Subjects of planning, organization and carrying out scientific and research work at the National School of Judges shall be:

7.4.1. Vice-Rector for Scientific and Research Work of the National School of Judges of Ukraine;

7.4.2. Scientific and Methodological Council of the National School of Judges of Ukraine;

7.4.3. Scientific structural units of the National School of Judges of Ukraine;

7.4.4. Working groups established for comprehensive research;

7.4.5. Scientific and academic staff of the National School of Judges of Ukraine.

7.5. Concept of Scientific and Research Work of the National School of Judges of Ukraine approved by the Scientific and Methodological Council upon Rector's approval shall be developed to ensure high level of theoretical and practical importance of applied research, strengthening the scientific and academic potential of the National School of Judges of Ukraine, creation of scientific grounds of training of high-qualified staff for the judiciary.

7.6. Plan of Scientific and Research Work of the National School of Judges of Ukraine which contains the list of scientific activities of the National School of Judges of Ukraine, deadlines, task leaders and implementers, expected results, form and venue shall be approved by the Rector based on the Concept of Scientific and Research Work of the National School of Judges of Ukraine.

7.7. Scientific research at the National School of Judges of Ukraine shall be conducted by its scientific structural units according to the areas of their activity and approved Plan of Scientific and Research Work for the year.

7.8. Responsibility of implementation of scientific and research work shall be assigned to the Scientific and Methodological Council of the National School of Judges of Ukraine, Vice-Rector for Scientific and Research Work of the National School of Judges of Ukraine, heads of scientific structural units and other subjects of planning, organization and implementation of scientific and research work of the National School of Judges of Ukraine.

8. PROPERTY AND FINANCIAL AND ECONOMIC ACTIVITY OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

8.1. Property of the National School of Judges of Ukraine shall be: capital assets, circulating assets and other tangible and financial assets the cost of which is reflected in the independent balance.

8.2. Property of the National School of Judges of Ukraine shall be state property and is vested on a basis of the right to operational management.

8.3. National School of Judges of Ukraine shall exercise the right to use the land allocated to it according to current legislation.

8.4. Funds, tangible assets and intangible assets which are received by the National School of Judges of Ukraine on a cost-free basis in the form of irrevocable financial aid or voluntary donation of legal and natural entities including non-residents for the purposes of academic, scientific and research, educational, cultural activity shall not be deemed as profit.

8.5. With regard to the property of the National School of Judges of Ukraine assigned to it under the right of operational management shall have a right to:

8.5.1. Receive according with the legislation of Ukraine funds and tangible assets (buildings, equipment, vehicles etc.) from state authorities, enterprises, institutions, organizations including charitable organizations, natural persons, civil society organizations, international organizations, institutions, funds etc.

8.5.2. Create its own or use on a contractual basis other material and technical resources.

8.5.3. Perform capital construction, reconstruction, capital repairs and maintenance of capital assets.

8.5.4. Allocate funds for construction and improvement of public and household facilities of the National School of Judges of Ukraine.

8.5.5. Enjoy other rights provided for in the legislation of Ukraine.

8.6. Funding of the National School of Judges of Ukraine shall be performed from the State Budget of Ukraine and other sources not prohibited by the legislation of Ukraine.

8.7. State Judicial Administration of Ukraine shall perform functions of the main administrator of funds of the State Budget of Ukraine with regard to funding the activity of the National School of Judges of Ukraine.

8.8. The National School of Judges of Ukraine, according to the legislation of Ukraine, shall make monthly, quarterly, annual reports and submit them to relevant bodies and institutions according to the established forms.

8.9. Rector and the Head of the Department for Accounting and Planned Activities of the National School of Judges of Ukraine shall be personally liable for validity of accounting, financial and statistical reporting.

8.10. The National School of Judges of Ukraine was established on a basis of the Academy of Judges of Ukraine and shall be legal successor of proprietary rights and duties of the Academy of Judges of Ukraine whose activity was terminated by merging to the National School of Judges of Ukraine on a basis of the Presidential Decree of January 17, 2011 No 52/2011 ‘On Declaring the Presidential Decree of October 11, 2002 No 918 Null and Void’ and the Order of the High Qualifications Commission of Judges of Ukraine and State Judicial Administration of Ukraine of 02.02.2011 No 2/24 ‘On Liquidation of the Academy of Judges of Ukraine’ with amendments of 21.07.2011 No 24/116 and 07.11.2011 No 38/146.

9. INTERNATIONAL COOPERATION

9.1. With the aim of task implementation the National School of Judges of Ukraine shall perform international cooperation and establish contacts with foreign educational establishments specializing in judicial training, international organization, technical assistance projects in Ukraine, embassies of foreign countries, funds, civil society organizations, judges and scientists in the field of law of other countries according to the legislation of Ukraine; conduct scientific and research work with participation of international experts; establish joint centers, laboratories etc.

10. LIABILITY OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

10.1. The National School of Judges of Ukraine shall be held liable for improper discharge of its duties according to the legislation of Ukraine and this Statute.

10.2. The National School of Judges of Ukraine shall make any compensations from the funds in its disposition according to the legislation of Ukraine.

11. PROCEDURE OF MAKING AMENDMENTS AND ADDITIONS TO THE STATUTE

11.1. Amendments and additions to the Statute shall be approved by the High Qualifications Commission of Judges of Ukraine and shall be subject to registration according to the established by the legislation of Ukraine procedure.

11.2. Amendments to the Statute shall come into effect on the day of their registration according to the established by the legislation of Ukraine order.

12. TERMINATION OF ACTIVITY OF THE NATIONAL SCHOOL OF JUDGES OF UKRAINE

12.1. The National School of Judges of Ukraine shall terminate its activity by merging, division or transformation and liquidation solely in cases stipulated by the legislation of Ukraine.

12.2. In case activity of the National School of Judges is terminated the employees shall be guaranteed safeguarding their rights and interests according to the labor legislation of Ukraine.

12.3. The National School of Judges of Ukraine shall be deemed as such that terminated its activity on the day of record of its state registration in the Unified State Registry of Legal Entities and Natural Persons – Entrepreneurs.

ANNEX E:

DRAFT

APPROVED

by

decision of the High Qualifications
Commission of Judges of Ukraine dated
_____ 2012

REGULATION on the procedure of special training of judicial candidates

The present Regulation has been elaborated in accordance with the Law of Ukraine “On the Judiciary and the Status of Judges” dated July 07, 2010 No. 2453-VI (hereinafter referred to as the Law) and determines the principles, tasks, forms of organization and procedure of conducting special training of judicial candidates as well as methodology of assessing its results.

I. General provisions

1.1. Special training is conducted for six months and is funded by the State Budget of Ukraine. During the period the candidate is undergoing training the principal place of business is preserved for him/her, scholarship is paid to him/her in the amount of at least two thirds of the functional salary of the judge of the local court of general jurisdiction.

1.2. Special training of judicial candidates is conducted in higher law educational institutions, the list of which is approved by the High Qualifications Commission of Judges of Ukraine.

1.3. Higher law educational institutions indicated in item 1.2. of the given Regulation conduct special training of judicial candidates on the following principles:

1.3.1. Versatile nature of special training;

1.3.2. Orientation of special training at mastering skills and abilities necessary for doing justice;

1.3.3. Unification of special training;

1.3.4. Practical orientation of special training;

1.3.5. Balanced nature of the Syllabus of special training by way of combination of theoretical and practical classes in the classrooms with probation in courts of general jurisdiction;

1.3.6. Mutual coordination of the activity with the High Qualifications Commission of Judges of Ukraine, the National School of Judges of Ukraine as entities of the special training system;

1.3.7. Anticipatory nature of the content of special training in relation to urgent needs of the judiciary;

1.3.8. Ensuring of high quality and scientific substantiation of special training;

1.3.9. Taking into account of the best international practice in judicial training and international standards in the sphere of justice.

1.4. Higher law educational institutions which conduct special training of judicial candidates also ensure the following:

- academic events in small groups (up to 5-7 people);
- availability of sufficient number of rooms, including courtrooms equipped as academic classrooms;
- possibility to provide accommodation for the period of undergoing of special training by judicial candidates by trainees from other localities.

1.5. Higher law educational institutions which conduct special training of judicial candidates, regardless of their status and belonging, ensure the necessary level of theoretical and practical knowledge for the sake of formation of professional skills and abilities, high morality and professional culture of the judicial candidate before (s)he occupies the judicial position following the requirements set to the content of such training.

1.6. Higher law educational institutions which conduct special training of judicial candidates have to meet the following criteria:

- official recognition of the right of the higher law education institution to carry out its activity on the level of state requirements and educational standards under the IVth accreditation level;
- capacity of the higher law educational institution to fully ensure implementation of the Syllabus of special training of judicial candidates with constant following of the principles determined in item 1.3. of the present Regulation;
- availability of programs introduced into the teaching process by topics adjacent to the teaching modules determined in the Syllabus of special training of judicial candidates (disciplines) and appropriate scientific and methodological provision;
- capacity of the higher law educational institution to ensure selection of staff (educational and research, research staff as well as practicing professional lawyers) to implement the Syllabus and the Curriculum of special training of judicial candidates.
- availability of well-established international contacts with educational institutions and judicial education institutions of the European and other countries as well as the results of their establishing.

1.7. Decision of the High Qualifications Commission of Judges of Ukraine on the List of higher legal educational institutions (p.1.2. of this Regulation) selected for special training of

judicial candidates is placed at the official web-portal of the High Qualifications Commission of Judges of Ukraine.

1.8. Higher law educational institutions which are candidates for conducting special training of judicial candidates submit annually by October 1 an application to the High Qualifications Commission of Judges of Ukraine and the materials corresponding to the selection criteria.

1.9. The High Qualifications Commission of Judges of Ukraine:

- considers materials of higher law educational institutions which are the candidates for conducting special training;

- on the basis of the submitted applications of higher law educational institutions as well as on the basis of the results of their activity it approves the List of higher law educational institutions for conducting special training of judicial candidates;

- conducts monitoring and control over special training of judicial candidates.

1.10. Higher law educational institutions which conduct special training of judicial candidates, in the part of exercising of the indicated authorities, are guided by Law, decisions of the High Qualifications Commission of Judges of Ukraine, the present Regulation, the Syllabus and Curriculum of special training of judicial candidates approved in accordance with the procedure set by the present Regulation.

1.11. Based on the approved by the High Qualifications Commission of Judges of Ukraine List of higher legal educational institutions, the National School of Judges of Ukraine concludes relevant agreements of cooperation with higher law educational institutions relating to special training of judicial candidates.

II. Special training organization

2.1. Special training is organized by the National School of Judges of Ukraine, taking into account the needs of the judiciary to the fullest extent possible, using the opportunities provided by advanced information technologies, and fullest involvement of judges-trainers.

2.2. The National School of Judges of Ukraine ensures participation of judges-trainers in special training conducting by higher educational institutions under the Syllabus of special training of judicial candidates.

2.3. Special training of judicial candidates is organized on the following principles:

2.3.1. Studies under the common unified Syllabus of special training of judicial candidates approved by the decision of the High Qualifications Commission of Judges of Ukraine;

2.3.2. Practical orientation necessary for judicial candidates to acquire professional skills of working as a judge;

2.3.3. Analogy and mandatory nature of the tasks for judicial candidates during special training;

2.3.4. Uniformity in the system of selection and training of trainers at the National School of Judges of Ukraine;

2.3.5. Uniformity of criteria and assessment procedure for the stages of special training of judicial candidates.

2.4. The period of judicial candidate training is determined by the number of accounting time units allotted to the implementation of the Curriculum of special training of judicial candidates.

Accounting time units of theoretical and practical training of trainees is an astronomic hour and an academic day.

Accounting time units in the course of probation is an astronomic hour and a work day.

2.5. Duration of the academic day does not exceed 8 academic hours. Duration of the academic week does not exceed 5 training days.

Duration of the work day in the course of probation does not exceed 8 astronomic hours. Duration of the work week does not exceed 5 workdays.

Duration of independent work of judicial candidates is determined by the Curriculum of special training of judicial candidates.

2.6. Work time of the trainer and judge-trainer is determined by the scope his/her academic, methodological, scientific and organizational duties in the period of special training.

2.7. The scope of academic classes is determined by academic load of the trainer/judge-trainer.

The types of academic classes included into the mandatory scope of the academic load of the trainer (judge-trainer) are determined according to the Curriculum of special training of judicial candidates a.

2.8. General control over special training of judicial candidates is exercised by the High Qualifications Commission of Judges of Ukraine, the National School of Judges of Ukraine and the corresponding higher law educational institutions.

2.9. Direct control over special training of judicial candidates is exercised by a group curator on behalf of the National School of Judges of Ukraine appointed by the Order of the Rector of the National School of Judges of Ukraine.

2.10. Group curator on behalf of the National School of Judges of Ukraine shall:

- keep record of judicial candidates' attendance of classes of theoretical and practical part and attendance of probation vases, controls the successfulness of special training of judicial candidates;

- control implementation of individual probation plans by judicial candidates;

- generalize results of theoretical and practical part of special training and probation by judicial candidates;

- control compliance of trainers (judge-trainers) with requirements of Curriculum and Syllabus of special training of judicial candidates;

- coordinate activities on preparation of schedule of classes jointly with higher legal educational establishments;

- submit reports on special training of judicial candidates to the National School of Judges;

- perform other functions entrusted to him/her by the Orders of the Rector of the National School of Judges of Ukraine.

2.11. Accounting of special training of judicial candidates is made in the Accounting Register, responsibility of keeping the Register is entrusted to the group curator of the National School of Judges of Ukraine.

The rules of keeping and storage of the Register are determined by the order of the rector of the National School of Judges of Ukraine.

III. Admission of judicial candidates to the National School of Judges of Ukraine and their assignment to higher law educational institutions

3.1. Judicial candidates who have successfully passed anonymous testing (exam) and have undergone the necessary verifications are sent by the High Qualifications Commission of Judges of Ukraine to the National School of Judges of Ukraine.

3.2. Admission of judicial candidates for special training is made on the basis of the order of the rector of the National School of Judges of Ukraine.

3.3. The National School of Judges of Ukraine assigns judicial candidates to higher law educational institutions to undergo special training.

By the order of the rector of the National School of Judges of Ukraine a person can be assigned to a given higher law educational institution for special training taking into account the grounds set out in the corresponding written application of the judicial candidate.

3.4. Judicial candidates admitted to the National School of Judges of Ukraine for undergoing special training have got the status of trainees.

3.5. In the process of admission for special training the National School of Judges of Ukraine starts the personal record of the trainee.

3.6. The personal record of the trainee includes the data on results of his/her training as well as on disciplining applied during special training.

3.7. Personal records of trainees are kept at the National School of Judges of Ukraine during the period fixed by the current legislation of Ukraine.

To the inquiry of the High Qualifications Commission of Judges of Ukraine the National School of Judges of Ukraine can make extracts from the personal record of a trainee on the results of his/her studies during the special training of judicial candidates.

3.8. Trainees undertake the commitment and sign an agreement of non-disclosure and non-application for any other reasons, but for the ones directly relating to training, of the data received access to which they will have during the special training of judicial candidates.

3.9. Trainees are entitled to the following:

3.9.1. To use the advantages of the unified system of special training of judicial candidates;

3.9.2. To use scientific and methodological as well as reference and information resources of the National School of Judges of Ukraine and higher law educational institutions.

3.9.3. To do research work;

3.9.4. To use the means and resources necessary to achieve the aim of special training of judicial candidates and acquire professional experience.

3.9.5. Other rights envisaged by the current legislation of Ukraine.

3.10. Trainees shall:

3.10.1. Follow the Constitution and the laws of Ukraine, prescriptions of the present Regulation as well as other regulatory and legal acts regulating the issues of special training of judicial candidates;

3.10.2. Follow the charter of the National School of Judges of Ukraine, charters of higher law educational institutions, orders of the management of the National School of Judges of Ukraine and higher law educational institutions, codes of internal conduct of the National School of Judges of Ukraine and higher law educational institutions, courts of general jurisdiction (probation bases) as well as ethical norms of conduct;

3.10.3. Attend classes following the Curriculum of special training, diligently perform all the tasks.

3.10.4. Obtain knowledge and acquire practical skills in the result of special training;

3.10.5. Not disclose and not use the information obtained for any other purpose, but for the one directly relating to training;

3.10.6. To treat the process of training in a diligent way, learning the academic modules (disciplines) set by the Syllabus of special training of judicial candidates in a diligent way;

3.10.7. Get acquainted with and study any documents containing information which is confidential under the legislation of Ukraine, exclusively in the premises of the National School of Judges of Ukraine higher law educational institutions included into the List envisaged by item 1.10. of the present Regulation and in courts of general jurisdiction (probation bases).

3.10.8. Fulfill other duties envisaged by legislation of Ukraine, decisions of the High Qualifications Commission of Judges of Ukraine and management of the National School of Judges of Ukraine, higher law educational institutions and/or the ones stipulated by the procedure of taking special training of judicial candidates.

3.10.9. Reimburse to the National School of Judges of Ukraine, higher law educational institutions and/or probation bases the material damage incurred.

3.11. In case the trainee violates the procedure of special training which leads to him being sent down, or in case (s)he stops undergoing such training on his/her own initiative, (s)he shall reimburse the funds spent on his/her training.

3.12. Non-fulfillment of the duties envisaged in item 3.9. of the present Regulation on the part of the trainer and (or) violation of the procedure of undergoing special training of judicial candidates constitutes the grounds for application of disciplinary penalty in the form of:

- a written warning;
- sending down.

Disciplinary penalty is imposed on by the order of the rector of the National School of Judges of Ukraine. Order on disciplinary penalty imposition must be well-grounded. Copy of the order attached to the personal record of the trainee.

3.13. Trainees are sent down on the basis of the order of the rector of the National School of Judges of Ukraine based on the substantiated proposal of the group curator on behalf of the National School of Judges of Ukraine.

IV. The content of special training

4.1. Special training of judicial candidates lies in the study of academic modules (disciplines) by them as envisaged by the Syllabus of special training of judicial candidates, for the sake of formation of their special skills and abilities necessary to work as a judge, high morality and professional culture.

4.2. Special training of judicial candidates includes theoretical and practical studies and probation.

4.3. The studies presuppose a systematic study of three blocks of academic disciplines (modules): “The Judiciary of Ukraine. Judicial ethics and deontology”, “Consideration of cases in courts of first instances (local courts)”, “Judicial skills”.

The first block “The Judiciary. Judicial ethics and deontology” includes academic disciplines (modules) in the following directions:

- the judiciary of Ukraine, system of general jurisdiction courts;
- legal status of the judge, his/her rights and duties;
- Application of the Constitution of Ukraine during administration of justice, decisions of the Constitutional Court of Ukraine in case law.
- international standards in justice;
- the role of court and judge in the society;
- general behavioural aspects of judicial activity;
- professional ethics of judges;
- judicial disciplinary liability;
- judicial oath and the consequences of its breach;
- prevention of corruption in the judicial sphere and responsibility of judges for corruptive actions.

The second block “Consideration of cases in courts of first instances (local courts)” includes academic disciplines (modules) in the following directions:

- civil legal proceedings;
- criminal legal proceedings and legal proceedings in cases on administrative offences;
- administrative legal proceedings;
- economic legal proceedings.

The third block “Judicial skills” includes academic disciplines (modules) in the following directions:

- legal skills;
- non-legal skills.

4.4. The content of special training includes a general and a special component.

4.5. The general component of the content of special training includes the discipline of fundamental, social, institutional and functional orientation which belongs to the blocks of judicial skills, the judiciary as well as ethical and deontological aspects of judicial activity.

4.6. The special component of special training of judicial candidates includes training in the following directions: “civil legal proceedings”, “criminal legal proceedings” and legal proceedings in the cases of administrative offences”, “administrative legal proceedings”, “economic legal proceedings”. The special component pertains only to the block “Consideration of cases in courts of first instances (local courts).”

4.7. The general and special component of special training of judicial candidates are practice-oriented and take into account judicial functions, they aim at formation of professional skills and abilities, high morality and professional culture of the judicial candidate.

4.8. Considering practical focus of special training of judicial candidates, training by judge-trainers must comprise not less than 50% of time provided for modules (disciplines) of general component, and not less than 60% of time provided for modules (disciplines) of special component.

4.9. The general duration of special training makes up 6 (six) months, out of which theoretical and practical studies last for 50 days, and probation – for 63 days.

4.10. The curriculum and syllabus of special training of judicial candidates and the curriculum of special training of judicial candidates are elaborated by the National School of Judges of Ukraine and are approved by the decision of the High Qualifications Commission of Judges of Ukraine.

4.11. The syllabus consists of systematized theoretical, practical academic modules aimed at getting of profound knowledge in the sphere of law and acquisition of judicial skills.

4.12. The curriculum of special training of judicial candidates is elaborated on the basis of the Syllabus of special training of judicial candidates, is developed for the whole period of its implementation and determines the tentative schedule of academic process, list and scope of discipline blocks to be taught during special training of judicial candidates; a weekly and overall amount of hours, the sequence of discipline teaching, forms and ways of current control.

4.13. Common and unified nature of the Curriculum of special training of judicial candidates and Syllabus of special training of judicial candidates are ensured by:

4.13.1. Obligatory nature of special training of judicial candidates under the Syllabus of special training of judicial candidates regardless of their educational and qualifications level and previous work experience;

4.13.2. Fulfillment of the tasks by the trainee which are equal in their complexity level during the training;

4.13.3 Absence of a variable component in the fulfillment of the tasks set by the trainee and probation;

4.13.4. Uniformity of the criteria of assessment of the results of special training.

V. Methodology of special training of judicial candidates

5.1. The methodology of special training of judicial candidates is based on the formation of skills and abilities with wide application of interactive forms and methods of studies.

While training trainees it is mandatory for the teaching staff of the National School of Judges of Ukraine and higher law educational institutions to widely apply the recent interactive technologies.

5.2. Special training of judicial candidates is arranged in the forms of:

- individual work;
- work in pairs;
- work in small groups (5-7 people);

- work in large groups (15-20 people).

5.2.1. Individual work is a form of special training aimed at independent fulfillment of individual tasks by each trainee separately under the supervision of trainers, judges-trainers.

5.2.2. Work in pairs presupposes exchange of ideas with the partner-trainer and elaboration of an agreed position in the issue under discussion, it develops communication skills, ability to listen, to think in a critical way, to convince, to hold a discussion. Work in pairs is a stage of adjustment to working in groups.

5.2.3. Work in groups lies in fulfillment of the tasks of a complicated and complex nature by trainees and is applied in cases when the task requires joint but not individual work.

5.2.4. All forms of special training of trainees shall be aimed at intensification and fixation of knowledge received in the course of special training as well as application of that knowledge in practice.

Trainers ensure optimum combination of the use of individual and joint work (in pairs, in small and large groups) for the trainees to achieve the goals of special training.

5.3. There are the following methods of special training of judicial candidates:

5.3.1. Academic lecture – a logically structured, substantiated from the academic point of view and systematized layout of some new theoretical material, illustrated, if necessary, with visual aids. The main aim of such class is for trainees to develop new or enhance available special knowledge on a certain topic.

5.3.2. Practical class – a type of classroom-based class at which the trainer (judge-trainer) organizes fulfillment of individual tasks by trainees, work in pairs and work in small groups for the trainees to develop skills and abilities necessary to perform judicial functions.

Practical classes are mainly held in the following forms: seminar-training, solution of situational tasks, situational modeling, role play, discussions in small and large groups etc.

The list of topics of practical classes is determined under the Curriculum of special training of judicial candidates.

5.3.2.1. Seminar-training is the type of practical class in which the trainer applies training technologies for the trainees to acquire appropriate skills.

5.3.2.2. Solution of situational tasks (cases) (the so called case method (*case study*) lies in analyzing of the circumstances of the case prepared on the basis of real court cases for the trainee to qualify it, choose and substantiate the decision.

5.3.2.3. Role play – performance of roles by trainees as set by certain situations which require application of special conduct and the corresponding knowledge of substantive and procedural law.

5.3.2.4. Modeling of specific situations – creation of the conditions and situations by the teacher which the judges have to face while doing justice, taking into account administrative business communication.

5.3.3. Consultation – the form of classes in which the trainee receives answers from the trainer to specific questions or clarifications on certain theoretical provisions or aspects of their practical application.

Consultation can be individual or be held for a group of trainees, depending on whether the trainer consults trainees in the issues relating to fulfillment of individual tasks, or in theoretical issues of the academic discipline.

Consultation is conducted before testing or fulfillment of practical task.

5.3.4. Independent work is the form of classes which is the main means for the trainee to master the material of training in the period of time when (s)he is free from mandatory classes in a higher law educational institution or during probation.

5.4. Integrity of means and application of uniform criteria of assessing the work of trainees are ensured by the teaching staff of the National School of Judges of Ukraine and higher law educational institutions.

5.5. An obligatory component of the implementation of the general and special components of special training is probation for trainees of the National School of Judges of Ukraine in courts of general jurisdiction.

5.6. The content, duration and sequence of probation are determined by the Curriculum and the Syllabus of special training of judicial candidates.

5.7. To organize probation for trainees the National School of Judges of Ukraine concludes agreements of organization and provision of probation for trainees of the National School of Judges of Ukraine with courts of general jurisdiction (hereinafter referred to as probation bases).

5.8. The National School of Judges of Ukraine determines the list of probation bases as well as assigns trainees to specific probation bases.

The Register of probation bases is approved by the rector of the National School of Judges of Ukraine.

While determining probation bases the National School of Judges of Ukraine can take into account objective and serious reasons set out in the trainee's written application.

The probation base shall have proper conditions for probation, in particular, for rooms for classes with trainees, their fulfillment of individual tasks and independent work, provision of safe labor conditions at workplace.

5.9. It is not allowed to use the work of trainees for the tasks which do not comply with the Curriculum and the Syllabus of special training of judicial candidates.

5.10. The National School of Judges of Ukraine controls undergoing of probation by trainees, takes steps to remove faults traced and submits proposals on improvement of the procedure of probation to the High Qualifications Commission of Judges of Ukraine.

5.11. A judge of the corresponding court of general jurisdiction – probation base who has got uninterrupted experience of working as a judge of no less than 5 years and has got no disciplinary penalties behind him/her can be the mentor judge.

The mentor judge can simultaneously be the supervisor of probation for no more than 3judicial candidates.

5.12. The list of mentor judges is approved by the order of the rector of the National School of Judges of Ukraine.

5.13. Mentor judges shall ensure probation for the trainees of the National School of Judges of Ukraine assigned to him/her in accordance with the requirements of the Curriculum of special training of judicial candidates and make an opinion on the probation.

5.14. On the basis of the order of the rector of the National School of Judges of Ukraine on determination of probation base and mentor judge, the head of the court of general jurisdiction (probation base) issues an order on probation of trainees of the National School of Judges of Ukraine with indication of the place, date of beginning and end of probation and mentor judge.

5.15. The specific list of issues to be studied by the trainee of the National School of Judges of Ukraine during probation and the tasks which have to be performed are indicated in the individual probation plan compiled by the National School of Judges of Ukraine under the Curriculum and the Syllabus of special training of judicial candidates.

The individual plan determines the periods of task performance with indication of the dates and hours for each topic.

5.16. The mentor judge is responsible for the probation, individual plan fulfillment and trainee preparation for performing judicial functions and authorities.

5.17. The person who has not undergone probation is struck off the list of trainees of the National School of Judges of Ukraine and on the basis of decision of the High Qualifications Commission of Judges of Ukraine is not allowed to take the qualification exam as the one who has not undergone special training.

5.18. Trainees are given assignments directions from the National School of Judges of Ukraine to the probation base with the corresponding not on the date of trainee departure to have the probation. On arrival to the probation base a note on the date of trainee arrival at the probation base must be made in the assignment.

5.19. Departure and arrival of trainees are certified by the signature of those in charge and sealed with the seals of National School of Judges of Ukraine and the court of general jurisdiction (probation base).

5.20. Group curators from the National School of Judges of Ukraine give the following documents to trainees:

- assignment on probation (with the signature of the rector of the National School of Judges of Ukraine in the corresponding direction and sealed with the seal of the National School of Judges of Ukraine);
- probation diary (with the signature of the rector of the National School of Judges of Ukraine in the corresponding direction and sealed with the seal of the National School of Judges of Ukraine);
- individual probation plan.

5.21. During the period of probation trainees shall:

- arrive at the probation base within the period indicated in the assignment;
- comply with current occupational safety and health and safety regulations (pass a credit in occupational safety at work place before);
- visit training at the probation base on a daily basis and perform orders and instructions of the mentor judge at the workplace;
- conform to the rules of internal code of conduct of the court of general jurisdiction (probation base);
- keep a probation diary;
- fulfill items of the individual probation plan;
- prepare the Report of probation during the special training of judicial candidates.

5.22. The results of probation are generalized by the trainees at the time allotted to independent work.

5.23. Methodologies mandatory for trainee's descriptions in the account are determined by the National School of Judges of Ukraine.

5.24. The mentor judges carry out everyday accounting of trainees finishing probation in the corresponding Accounting register according to the form established by the Order of the Rector of the National School of Judges of Ukraine.

5.25. After the end of probation trainees shall submit to the group curator documents drawn-up and certified in accordance with the procedure set by i. 5.18. of the present Regulation.

5.26. After the end of each stage of probation trainees compile Reports of probation during the period of special training of judicial candidates 25-30 pages long following the form established by the Order of the Rector of the National School of Judges of Ukraine.

5.27. Group curator on behalf of the National School of Judges of Ukraine generalized probation results and prepares references for each of trainees, and these references necessarily have to reflect the data on personal and moral characteristics of the trainee traced during the special training.

VI. Assessment of the results of special training and current control

6.1. Assessment of the results of special training consists of assessment of the theoretical and practical part by the National School of Judges of Ukraine and higher law educational institutions as well as assessment of probation by mentor judges.

6.2. The level of theoretical knowledge and professional training of trainees, the degree of their readiness for doing justice in the issues within the jurisdiction of the corresponding court as well as personal and moral characteristics of trainees are subject to assessment.

6.3. The procedure and methodology of assessment of the results of special training of trainees are determined by a separate regulation approved by the National School of Judges of Ukraine with the approval of the High Qualifications Commission of Judges of Ukraine.

6.4. General assessment of the results of special training of judicial candidates is made by the National School of Judges of Ukraine by way of calculating the number of points received on the basis of its theoretical and practical part and probation as well as provision of the general opinion about the special training of judicial candidates.

6.5. Control measures include means of current control and presuppose identification of the knowledge trainees got in terms of scope, quality, depth and skills of their application in practical activity.

6.6. Current control over the results of the theoretical and practical part of special training of judicial candidates is exercised by the National School of Judges of Ukraine and higher law educational institutions after the end of each academic modules.

6.7. Current control over the results of probation is exercised by the National School of Judges of Ukraine and mentor judges after probation period is over.

6.8. The form of current control during the theoretical and practical part of special training of judicial candidates are test items and practical tasks elaborated by trainers, judges-trainers in disciplines in the corresponding modules envisaged by the Syllabus of special training and approved by the National School of Judges of Ukraine.

6.9. Test items are complex and include items in the disciplines taught during the special training.

6.10. Practical task is compiled in state language and contains situational exercises testing practical skills and ability of candidates for law application acquired as the result of probation.

6.11. The form of current control during the probation is the opinion of the mentor judge during probation.

VII. The procedure of teaching staff formation for special training of judicial candidates

7.1. The High Qualifications Commission of Judges of Ukraine approves the teaching staff for conducting special training of judicial candidates.

7.2. The main criteria of teaching staff formation are objectivity, professionalism, experience, authority, profound knowledge and experience in the sphere of the selected range of topics for studies and teaching skills, skills of efficient teaching techniques.

7.3. The list of candidates to the positions of trainers and judge-trainers is formed by the National School of Judges of Ukraine on the basis of their written applications. When the list of candidates of the National School of Judges of Ukraine is formed, proposals of local general courts, appellate general courts, higher specialized courts and the Supreme Court of Ukraine as well as other court institutions can be taken into account.

7.4. The list of candidates to the positions of trainers is formed by higher law educational institutions on the basis of their written applications. And when the list of candidates to the positions of trainers is formed by higher educational law institutions there shall be applied objective selection criteria among the best specialists in the issues included on the Syllabus of special training of judicial candidates.

7.5. On each candidature in the list of trainers submitted by the National School of Judges of Ukraine and higher law educational institutions to the High Qualifications Commission of Judges of Ukraine, the following shall be attached:

7.5.1. Exhaustive information on his/her professional activity with attachment of the copy of diploma of higher education.

7.5.2. Documents confirming a wide and detailed awareness of the candidate with the academic discipline (course, topic), the need for teaching of which is the subject of the announced competition. These documents can include, in particular: diploma of academic degree awarding and certificate of scholarly title assignment, diplomas/certificates of appropriate post-diploma studies or specialized academic courses/trainings, etc.

7.5.3. Information with confirmation of the participation in conferences, seminars and symposia in the corresponding topics, texts or theses of reports/speeches, published articles, books, academic manuals, etc.

7.5.4. Data on the experience of teaching with indication of specific topics, forms of academic events, their quantity and, if that is possible, with provision of the responses of the participants of the events conducted earlier.

7.6. Candidates to the positions of trainers who are not practicing judges/retired judges or members of court staff (sociologists, psychologists, economics, experts having a different

specialization) are selected by higher law educational institutions out of the leading specialists in the corresponding direction. The following additional requirements are applied to them:

7.6.1. List of the works published in the corresponding topics, pointing out the ones adjacent to practical activity of judges.

7.6.2. Provision of data on cooperation with courts as experts, specialists or consultants.

7.6.3. Data on the participation as reporter or trainee at academic events for judges, prosecutors or court staff members with the feedback of the participants of such events or their organizers.

VIII. Determination of the results of special training of judicial candidates

8.1. The candidate to judicial position is considered to be the one who has successfully undergone special training in case the following terms are available in their integrity:

- taking no less than 50 % of maximum points based on the results of control during special training;
- approval of the General opinion on special training by the rector of the special training of judicial candidates.

8.2. On the basis of the results of successful special training of the judicial candidate the National School of Judges of Ukraine issues a document of the set form.

IX. Sending down from the National School of Judges of Ukraine. Termination of special training of judicial candidates

9.1. Sending down a trainee from the National School of Judges of Ukraine takes place following the procedure and on the terms determined by the High Qualifications Commission of Judges of Ukraine and the National School of Judges of Ukraine in line with the requirements of the present Regulation.

9.2. There are the following grounds for pre-scheduled termination of undergoing of special training of judicial candidates by a candidate:

- a written application of the trainee containing refusal from special training of judicial candidates;
- health condition based on the opinion of state medical institution;
- family circumstances or other serious reasons the list of which is determined by the High Qualifications Commission of Judges of Ukraine and the National School of Judges of Ukraine;
- coming into effect of the guilty verdict of court;
- systematic default of duties envisaged by item 3.10 of the present Regulation.

- non-taking of probation during special training of judicial candidates by the candidate in accordance with the procedure envisaged by the present Regulation;

- application of disciplinary penalty in the form of the trainee being sent down from the National School of Judges of Ukraine.

9.3. The trainees who have terminated undergoing of special training of judicial candidates due to family reasons or for some other serious reasons the list of which is determined by the High Qualifications Commission of Judges of Ukraine and the National School of Judges of Ukraine are entitled to be enrolled to the National School of Judges of Ukraine on a repeated basis.

ANNEX F:

DRAFT

CURRICULUM OF SPECIAL TRAINING OF CANDIDATES FOR JUDICIAL POSITIONS

TOTAL DURATION – 6 months, thereof:
Theoretical and practical training – 56 training days;
Traineeship – 59 working days.

I. THEORETICAL AND PRACTICAL PART – TRAINING IN HIGH LEGAL EDUCATIONAL ESTABLISHMENTS

TOTAL DURATION: 56 training days, 448 hours of training (hour of training equals to astronomic hour), duration of training is 5 training days per week, 8 hours a day.

TRAINING BLOCKS:

1. UKRAINIAN JUDICIARY. JUDICIAL ETHICS AND DEONTOLOGY – 64 hours.

2. CONSIDERATION OF CASES IN FIRST INSTANCE COURTS (LOCAL COURTS)
– 320 hours

2.1. civil proceedings – 80 hours

2.2. criminal proceedings and proceedings on cases concerning administrative offences – 80 hours

2.3. administrative proceedings – 80 hours

2.4. commercial proceedings – 80 hours

3. BLOCK OF JUDICIAL SKILLS - 64 hours

II. TRAINEESHIP

TOTAL DURATION: 59 working days, duration of training is 5 days per week, 8 hours a day: from 9.00 to 18.00 (working hours of court or training venue with a break for lunch).

I. THEORETICAL AND PRACTICAL PART

No	TOPICS OF MODULES (SUBJECTS)	NUMBER OF HOURS	
	1. UKRAINIAN JUDICIARY. JUDICIAL ETHICS AND DEONTOLOGY	64 hours	
	Ukrainian judiciary. System of courts of general jurisdiction		
	Legal status of judge, his/her rights and duties		
	International standards of justice administration		
	Application of the Constitution of Ukraine during administration of justice. Decisions of the Constitutional Court of Ukraine in case law.		
	Role of court and judge in the society		
	General behavioral aspects of judicial activity		
	Judicial professional ethics		
	Disciplinary liability of judge		
	Judicial oath and consequences of its breach		
	Prevention of corruption in the judicial environment and liability of judges for corruptive actions		
2. CONSIDERATION OF CASES IN FIRST INSTANCE COURTS			
	2.1. CIVIL PROCEEDINGS	80 hours	
	Human rights and fundamental freedoms – application of international tools of their protection by courts in civil cases		
	Issues of determining jurisdiction of cases. Procedural terms. Composition of court. Recusals.		
	Safeguarding the right to access to court (opening proceeding, discontinuation of a claim, progress of a case, suspension of proceedings, dismissal of proceedings, shelving the claim, appeals etc.)		
	Court expenses. Distributions of court expenses between the parties.		
	Preparation of a case for adjudication. Determining composition of persons participating in a case. Preliminary court session. Court assignments regarding collection of evidence. Measures of security for a claim.		
	Court summons and notifications. Measures of procedural enforcement. Examination of case in absentia.		

Examination of evidence. Appropriateness and admissibility of evidence, their assessment in different categories of cases considered in the framework of civil proceedings (including assigning and assessment of conclusions of forensic examinations)		
Peculiarities of adjudication of cases of order-based, claim-based and separate proceedings. Recording civil procedures.		
Peculiarities of adjudication of cases on declaring agreements/transactions null and void.		
Peculiarities of adjudication of family cases		
Peculiarities of adjudication of probate cases		
Peculiarities of consideration of land disputes		
Peculiarities of adjudication of cases on proprietary rights protection		
Peculiarities of adjudication of cases on compensation of damages		
Peculiarities of adjudication of cases with regard to loan relationships, mortgage		
Consideration of cases based on new findings of facts.		
Procedural issues pertaining to court decisions enforcement. Admitting and enforcement of foreign courts decisions in Ukraine. Court control over enforcement of court decisions.		
	X	
2.2. CRIMINAL PROCEEDINGS AND PROCEEDING IN CASES CONCERNING ADMINISTRATIVE OFFENCES	80 hours	
2.2.1. CRIMINAL PROCEEDINGS		
Practice of the European Court of Human Rights and criminal procedure		
Principles of criminal procedure		
Court, litigants and other participants of criminal procedure: their rights and duties. Investigating judge, his/her legal status		
Selection and substantiation of application of preventive measures by court at the stages of enquiry and pre-trial investigation		
Court control over the bodies of enquiry, pre-trial investigation and prosecution in criminal procedure		

	Jurisdiction of criminal cases		
	Examination of evidence. Appropriateness and admissibility of evidence, their assessment in different types of criminal cases. Understanding the burden of proof and safeguarding compliance with it		
	Civil claim in criminal case. Compensation of damages caused in the result of a crime		
	Proceedings in first instance court: general provisions and problem issues. Scope of case consideration		
	Simplified court proceedings.		
	Methodology of considering cases with participation of a jury		
	Matters which exclude the lawlessness of action. Exemption from criminal liability.		
	Peculiarities of qualification of crimes		
	Consideration of personal crimes		
	Consideration of property crimes		
	Consideration of crimes in economic activity		
	Consideration of crimes in the field of official activities		
	Consideration of other types of crimes		
	Peculiarities of consideration of criminal cases on juvenile crimes		
	Peculiarities of consideration of criminal cases on application of forced actions of medical nature		
	Selection of sanction and infliction of punishment		
	Dismissal of a criminal case		
	Announcing a verdict		
	Consideration of issues of enforcement of judgment, ruling, order by the court		
	Role of the court in addressing the issues of international cooperation in criminal cases		
	2.2.2. PROCEEDING IN CASES CONCERNING ADMINISTRATIVE OFFENCES		
	Understanding of cases concerning administrative offences as criminal cases in the light of Convention on Human Rights and Fundamental Freedoms and practice of the European Court of Human Rights		
	Application of guarantees envisaged by Article 6 and Article 2 of the Protocol N 7 to the Convention on Human Rights		

	and Fundamental Freedoms during consideration of cases concerning administrative offences		
	Examination of evidence. Appropriateness and admissibility of evidence, their assessment in different types of cases concerning administrative offences. Understanding the burden of proof and safeguarding compliance with it		
	Peculiarities of adjudication of cases of certain categories of cases concerning administrative offences		
	Peculiarities of consideration and adjudication of cases on corruption offences		
	Peculiarities of consideration and adjudication of cases on violation of customs rules		
	Selection of sanction and infliction of punishment. Substantiation of a decision (ruling)		
	2.3. ADMINISTRATIVE PROCEEDINGS	80 hours	
	Role of administrative justice in a democratic society. European standards of administrative justice		
	Application of principles of administrative proceedings in the light of Convention on Human Rights and Fundamental Freedoms and practice of the European Court of Human Rights		
	Basic principles of administrative procedure and application by court of criteria of assessing a decision, actions of lack of actions of entities with authoritative powers		
	Subject matter and territorial jurisdiction. Problem issues of determining jurisdiction, separation of cases of administrative jurisdiction from civil and commercial one.		
	Examination of evidence. Appropriateness and admissibility of evidence, their assessment in administrative cases. Understanding the burden of proof and safeguarding compliance with it in administrative procedure		
	Opening proceedings, preliminary proceeding (including security for a claim, conducting preliminary court hearing)		
	Peculiarities of proceedings in administrative cases (including abridged proceeding). Application of means of procedural enforcement		
	Application of criteria of assessing a decision, actions of lack of actions of entities with authoritative powers by court		
	Consideration of pension and other social disputes		
	Consideration of disputes regarding decisions, actions of lack of actions of entities with authoritative powers in cases on		

	infliction of administrative sanctions		
	Consideration of cases concerning elections		
	Consideration of disputes with participation of local self-government bodies		
	Consideration of tax disputes		
	Consideration of disputes regarding appealing against normative and legislative acts		
	Peculiarities of consideration of certain categories of administrative cases: administrative disputes in the field of land jural relationships; conclusion, implementation, termination, cancellation or declaring null and void administrative agreements; disputes regarding provision of administrative services; disputes regarding granting a refugee status to a person; disputes regarding admission of citizens to public service, its passing, dismissing from public service; disputes regarding exercise of such rights as right to access to public information, right to citizen's applications, right to peaceful social gatherings, right to associations of citizens etc.		
	Enforcement of court decisions in administrative proceedings		
	2.4. COMMERCIAL PROCEEDINGS	80 hours	
	Application of principles of commercial proceedings in the light of Convention on Human Rights and Fundamental Freedoms and practice of the European Court of Human Rights		
	Problem issues of determining jurisdiction, separation of cases of commercial jurisdiction from civil and administrative ones.		
	Distribution of burden of proof, admitting evidence appropriate and admissible, assessment of evidence. Proofs in commercial cases		
	Initiation of a case. Court expenses and their allocation. Preparation of a case for consideration		
	Preventive measures and measures of security for a claim in commercial cases		
	Proceedings in bankruptcy cases. Proceedings based on petitions to cancel decisions of court of arbitration.		
	Peculiarities of consideration and adjudication of certain categories of commercial disputes (regarding proprietary rights and other proprietary interests; regarding intellectual property right; corporate disputes etc.)		

	Court fees and their distribution		
	Consideration of cases based on new findings of fact		
	Consideration of cases with participation of foreign economic entities		
	Role of court in enforcement of court decisions on commercial cases		
	3. BLOCK OF JUDICIAL COMPETENCES	64 hours	
	3.1. LEGAL EXPERTISE		
	Case management in first instance courts. Formalization of a case.		
	Case management and court administration		
	Team work		
	Court acts and documents: types, structure, content, form. Court rulings and protocols		
	Assignment and assessment of forensic examination conclusions		
	Application of law analogy by courts		
	Application of international agreements, consent to binding nature of which was admitted by the Verkhovna Rada of Ukraine, by courts		
	Freedom of adjudication		
	Conducting a court session (peculiarities of different categories of cases)		
	Writing a decision on different categories of civil, administrative and commercial cases		
	Preparation of a verdict in different categories of criminal cases. Peculiarities of passing a verdict of guilty and verdict of not guilty		
	Preparation of rulings in cases concerning administrative offences		
	Interpretation of normative and legislative acts		
	Court statistics		
	3.2. NON-LEGAL SKILLS		
	Ability to listen and communication skills		
	Psychological aspects of judicial activity		
	Judicial conduct in conflict situations and under pressure		

	Judicial rhetoric		
	Abilities to work with information technologies and databases		

II. TRAINEESHIP

No	Title	Number of days	Notes
1	Judicial ethics	9	
2	Traineeship in first instance court	44	
2.1	Consideration of civil cases in first instance court	11	
2.2	Consideration of criminal cases and cases concerning administrative offences in first instance court	11	
2.3	Consideration of administrative cases in first instance court	11	
2.4	Consideration of commercial cases in first instance court	11	
3	Block of judicial competences	6	
3.1	Getting familiarized with activity of appellate instance courts	3	
3.2	Getting familiarized with activity of penitentiary institutions	1	
3.3	Getting familiarized with activity of state court enforcement service bodies	1	
3.4	Getting familiarized with activity of territorial offices of the State Judicial Administration of Ukraine	1	
	Total	59	